

HIGH COURT OF UTTARAKHAND
AT NAINITAL

Appeal From Order No.80 of 2018

Bachan Singh (since deceased) and Others
... Petitioners

Vs.

Indrajeet Singh and Others
... Respondents

Advocate: Mr. Sandeep Kothari, learned counsel for the petitioners.
Mr. I.P. Kohli, learned counsel for respondent no.5
Mr. Naresh Pant, learned counsel for respondent no.2
through video conferencing.
Mr. H.S. Rawal, learned counsel for respondent no.3.

Hon'ble Sharad Kumar Sharma, J.

Though the appeal is listed for orders but the learned counsel representing the parties agree that the matter may be decided on merit.

2. The challenge in the present appeal from order, by invoking the provisions contained under Section 173 of the Motor Vehicle Act, is to the award dated 04.08.2017, as it was rendered by the learned Motor Accident Claim Tribunal in Motor Accident Claim Petition No.18 of 2016, "Bachan Singh and another Vs. Indrajeet Singh and Others".

3. The precise facts are that, the claimants have contended in their claim petition, that their brother Surat Singh, while he was travelling on 18.02.2010 from Chunakhal to Ramnagar, near Chunakhal, the bus bearing Registration No.UA04-

7975, in which he was working as a conductor, met with an accident due to which Mr. Surat Singh met with the sad demise.

4. According to the case of the claimants, that he was immediately taken for treatment to Ramnagar, where he was reported to have died during the course of the treatment.

5. It is contended by the claimants, that on the date of the accident, he was of about 20 years of age and since, owing to the engagement, in which he was involved, that is being a conductor of the bus, it was contended by the claimants that he was earning a sum of Rs.4,000/- per month. Apart from it, he was also paid an additional amount of Rs.50 per day to meet out his day-to-day expenses. Consequently, on the basis of the aforesaid foundation of income accruing to the deceased, the claimants have raised the claim that they may be awarded the compensation to the tune of Rs.17,60,000/-.

6. The claim, thus raised by the claimants/ appellants herein, was opposed by the respondents. Ultimately, the claim petition have been decided by the impugned award whereby the multi-faceted arguments, which have been raised by the learned counsel for the appellants while putting a question to the impugned award of 04.08.2017, are being dealt with.

7. Firstly, he submits that the foundation of determining the notional income, as to be Rs.36,000/- per annum, which has been taken as to be the basis for payment of the compensation, was bad in the eyes of law, for the reason being, that it was the claimants' case, that he was earning a sum of Rs.4,000/- per month. Hence, at least the determining of the compensation should have been made @ Rs.4,000/- per month, on the basis of its being multiplied by 12, in order to determine the annual income accruing to the deceased.

8. Secondly, learned counsel for the appellants argues that the determination of compensation, which has been based on the notional income, taking it as to be Rs.36,000/- per annum, the claimants would not be entitled for future prospects also.

9. Thirdly, learned counsel for the appellants has argued, that the learned Motor Accident Claim Tribunal erred at law by applying the multiplier of 5, which was determined on the basis of the age of the claimants, who were 72 years and 66 years of age respectively. Hence, he contends that the multiplier, which has been applied by the learned Motor Accident Claim Tribunal, would be bad in the eyes of law, because it is a settled principle of law that the multiplier, if at all, it is to be applied, it has to be applied, on the basis of the ratio laid down in the judgment of the Hon'ble Apex Court in the

matter of **Sarla Verma and Others Vs. Delhi Transport Corporation and Others**, as reported in **AIR 2009 S.C. 3104**.

10. Apart from it, the multiplier has to be determined on the basis of the age of the deceased and not on the basis of the age of the claimant.

11. Heard learned counsel for the parties.

12. As far as the first two issues are concerned, first, pertaining to taking the notional income as to be Rs.36,000/- per annum and second, pertaining to non-grant of the benefit of future prospects, when the compensation itself is determined, on the basis of the notional income, these are the issues, which have not been pressed by the appellants' counsel.

13. Ultimately, the issue only boils down as to what would be the appropriate multiplier, which has to be applied for the purpose of determination of compensation after applying the notional income of Rs.36,000/- as payable to the claimants to the claim petition.

14. On this issue too, the parties to the appeal from order, are not at dispute that applying multiplier of 5 by learned Motor Accident Claim Tribunal, which was based on the age of the claimants, was a wrong principle, which was followed by the learned Motor Accident Claim Tribunal, because the compensation has had to be

determined on the basis of the age of the deceased as he was on the date of the accident.

15. In view of the parameters prescribed for determination of multiplier, as per the schedule appended to the Motor Vehicle Act, since the deceased was of 20 years of age, the claimants would have been entitled for multiplier of 18, on the compensation, as it has been determined by the learned MACT.

16. This Appeal from Order is being ventured into only from that limited prospects with regards to the application of the multiplier, and hence, the multiplier of 5, as it has been applied by the learned Motor Accident Claim Tribunal, was wrongfully determining it, on the basis of the age of the claimants, is being hereby modified, to the extent, that the multiplier on the amount of compensation, as it has been determined by the learned Motor Accident Claim Tribunal, would be on the basis of 18, as prescribed in the schedule to the M.V. Act, which would be based upon the age of the deceased at the time of the accident and not on the basis of the age of the claimants.

17. Subject to the aforesaid, the impugned award dated 04.08.2017 would partly stand quashed, so far as it relates to the applicability of the multiplier, the same would be applied @ 18 instead of 5. Accordingly, the compensation would

be re-determined to be made payable after applying the multiplier of 18.

18. Thus, the appeal from order partly succeeds, only limited to the extent of applicability of multiplier, and the learned Motor Accident Claim Tribunal is directed to re-determine the compensation, after applying the multiplier of 18 and, the same would be remitted by the respondent, who accepts the said principle, as per law.

19. After conclusion of the judgment, learned counsel for the Insurance Company submits that whatsoever amount is re-determined in pursuance to today's order, the same may be permitted to be remitted by the Insurance Company to the claimants within a period of six weeks from the date of its re-determination.

20. The said prayer is accepted. As soon as the learned Motor Accident Claim Tribunal re-determines the amount after applying the multiplier of 18, the Insurance Company would pay the excess amount to the claimants within a period of six weeks thereafter.

(Sharad Kumar Sharma, J.)

24.11.2023