

Court No. - 48

Case :- FIRST APPEAL FROM ORDER No. - 94 of 2004

Appellant :- Smt. Phoolmati Devi And Others

Respondent :- Abdul Rahim And Anothers

Counsel for Appellant :- Vashistha Tiwari

Counsel for Respondent :- Krishna Shanker Chaudhary

Hon'ble Vipin Chandra Dixit,J.

1. Heard Sri Vashistha Tiwari, learned counsel for appellants, Sri K.S. Chaudhary, learned counsel appearing on behalf of respondent no.2 National Insurance Company Limited. No one is present on behalf of respondent no.1, who is owner of the vehicle.

2. The present first appeal from order has been filed by the claimants-appellants for enhancement of compensation against the judgment and award dated 18.9.2003 passed by Motor Accident Claims Tribunal/District Judge, Deoria in M.A.C.P. No.290 of 1999 (Smt. Foolmati Devi and another Vs. Abdul Rahim and another), by which the claim petition filed by claimants-appellants was partly allowed and the compensation of Rs.4,25,000/- along with 9% interest has been awarded to the claimants-appellants on account of death of Ram Briksha Yadav in a road accident occurred on 18.12.1998.

3. It is submitted by learned counsel for claimants-appellants that the deceased was a permanent employee of State Bank of India, Deoria and was getting salary of Rs.16,000/- per month. The Claims Tribunal had erred in awarding a very less amount of compensation. The age of the deceased was accepted 57 years 6 months by the Claims Tribunal but had erred in applying the multiplier of 8 instead of 9. Nothing has been awarded towards future prospects and only Rs.7,000/- was awarded for non-pecuniary damages whereas the claimants-appellants are entitled for 15% future prospects and Rs.70,000/- for non-pecuniary damages as per law laid down by the Hon'ble Apex Court in the case of *National Insurance Company Ltd. Vs. Pranay Sethi* reported in **2017(4) T.A.C. 673**. Lastly, it

is submitted that claimants-appellants had proved the income of the deceased Rs.13,904/- per month and the Claims Tribunal had erred in taking the round figure as Rs.13,500/- instead of Rs.14,000/-. The Claims Tribunal had committed illegality in calculating the compensation by applying split multiplier by taking total salary for 2 years and 8 months and Rs.2,000/- per month for a period of 5 years and 4 months. No other ground has been pressed by the learned counsel for the claimants-appellants.

4. On the other hand, learned counsel appearing for respondent Insurance Company has submitted that the Claims Tribunal has awarded a very just compensation to the claimants and no ground for enhancement is made out. It is further submitted that at the time of accident the deceased was above 57 years and was going to retire at the age of 60 years. The Claims Tribunal has rightly assessed the compensation. No ground for enhancement is made out.

5. Considered the submissions of learned counsel for the parties and perused the record.

6. The Claims Tribunal itself had recorded the finding that at the time of death the deceased was getting Rs.13,904/- per month but had erred in accepting monthly income of deceased as Rs.13,500/- in round figure, whereas Rs.14,000/- would be round figure for the purposes to calculate the just compensation. The Claims Tribunal had also erred in applying the multiplier of 8 whereas the Hon'ble Apex Court in the case of ***Smt. Sarla Verma Vs. Delhi Road Transport Corporation*** reported in **2009(2) TAC 677**, has provided the multiplier of 9 for the age group of 56-60 years. The claimants-appellants are also entitled for 15% future prospects and Rs.70,000/- for non-pecuniary damages. The Claims Tribunal has also erred in applying split multiplier. The Hon'ble Apex Court in the case of ***Maya Singh and others Vs. Oriental Insurance Co. Ltd. And others*** reported in **2025 (1) T.A.C. 771 (S.C.)** has laid down the law that multiplier should be applied as per table provided in the case of ***Sarla Verma*** (supra)

and split multiplier can not be applied unless specific reasons are recorded.

The relevant paragraph 11.3 is quoted herein below:-

“11.3 This Court in Sumathi (supra) addressed a similar situation. The deceased was 54 years of age and was due to retire from government service in four years when the fatal accident occurred. The High Court assessed the compensation by taking the total salary of the deceased for the leftover period of four years and fifty per cent of the salary for the post-retirement period. The High Court awarded a total compensation of ₹25,25,000/- instead of ₹40,76,496/- awarded by the Tribunal. This Court set aside the decision of High Court and held that split multiplier cannot be applied unless specific reasons are recorded. It was opined as under:

“9. The High Court has applied split multiplier by referring to the judgment of this Court in the case of Puttamma & Ors. v. K. L. Narayana Reddy & Anr., (2013) 15 SCC 45: 2014(1) TAC 926: 2013 I.N.S.C. 814, without recording any specific reason, contrary to the said judgment. The High Court has applied split multiplier only on the ground that the deceased was 54 years of age at the time of the accident and leftover service was only four years. In the case of Puttamma & Ors. v. K. L. Narayana Reddy & Anr., in similar circumstances, where the split multiplier was applied for the purpose of assessing compensation by the High Court, this Court has allowed the appeal by setting aside the judgment of the High Court. Para 66 of the judgment of the case of Puttamma & Ors. v. K. L. Narayana Reddy & Anr. is relevant for the purpose of disposal of this appeal. The relevant para 66 reads as under:

“66. In the appeal which was filed by the claimants before the High Court, the High Court instead of deciding the just compensation allowed a meagre enhancement of compensation. In doing so, the High Court introduced the concept of split multiplier and departed from the multiplier system generally used in the light of the decision in Sarla Verma case without disclosing any reason. The High Court has also not considered the question of prospect of future increase in salary of the deceased though it noticed that the deceased would have continued in pensionable services for more than 10 years. When the age of the deceased was 48 years at the time of death it wrongly applied multiplier of 10 and not 13 as per decision in Sarla Verma. Thus, we fail to appreciate as to why the High Court chose to apply split multiplier and applied multiplier of 10. We, thus, find that the judgment of the High Court is perverse and contrary to the evidence on record and is fit to be set aside for not having considered the future prospects of the deceased and also for adopting split multiplier method against the law laid down by this Court. In view of our aforesaid finding, we hold that the judgment of the High Court deserves to be set aside. We, accordingly, set aside the impugned judgment and hold that the claimants are entitled for total compensation of Rs.23,43,688. They shall also get interest on the enhanced compensation at the rate of 12% per annum from the date of filing of the complaint petition. Respondent 2 Insurance Company is directed to pay the enhanced/additional compensation and interest to the claimants within a period of three months by getting prepared a demand draft in their name.”

From a reading of the above judgment, it is clear that in normal course, the compensation is to be calculated by applying the multiplier, as per the judgment of this Court in the Case of Sarla Verma. Split multiplier cannot be applied unless specific reasons are recorded. The finding of the High Court that the deceased was having leftover service of only four years, cannot be construed as a special reason, for applying the split multiplier for the purpose of assessing the compensation. In normal course, compensation is to be assessed by applying multiplier as indicated by this Court in the judgment in the case of Sarla Verma. As no other special reason is recorded for applying the split multiplier, judgment of the High Court is fit to be set aside by restoring the award of the Tribunal."

7. In view of above discussion, the compensation awarded by the Motor Accident Claims Tribunal is reassessed as follows :-

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|---|---|
| 1. Monthly Income : | = Rs.14,000/- |
| 2. Annual Income : | = Rs.14,000/- x 12 = Rs.1,68,000/- |
| 3. Future prospects : (15%) | = Rs.25,200/- |
| 4. Total annual income : | = Rs.1,68,000/- + Rs.25,200/- = Rs.1,93,200/- |
| 5. Deduction towards
personal expenses (1/3) : | = Rs.1,93,200/- - Rs.64,400 = Rs.1,28,800/- |
| 6. Multiplier applicable (9) : | = Rs.1,28,800/- x 9 = Rs.11,59,200/- |
| 7. Non-pecuniary damages : | = Rs. 70,000/- |
| Total : | Rs.11,59,200/- + Rs. 70,000/- = Rs.12,29,200/- |

8. The first appeal from order filed by claimants is hereby partly allowed and award of the Claims Tribunal is modified and compensation awarded by the Claims Tribunal is enhanced from Rs.4,25,000/- to Rs.12,29,200/-.

9. The National Insurance Company Limited/respondent no.2 is directed to pay enhanced amount of Rs.8,04,200/- along with interest at the rate of 6% from the date of judgment and award dated 18.9.2003 to the claimants-appellants, within two months from today.

10. No order as to costs.

Order Date :- 19.5.2025

Kpy