IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.10 of 2014

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1. Pramila Devi W/O Late Rmtirath Singh Resident of Village Pandarak, P.O. Pandarak, District Patna (Mother of Deceased).

.... Appellant/s

Versus

1. Rajesh Kumar S/O Shiv Kumar Singh Resident Of Sector Z/A, Qr. No. 3197, B.S. City, Bokaro (Jharkhand), Pin 827001. (Owner Of Truck Bearing Registration No. JH-09K/3919).
2. Ram Kumar Singh S/O J.N. Singh Sector Ix/D, Qr. No. 1845, B.S. City, District Bokaro (Jharkhand), Pin 827009. (Driver of Truck Bearing Registration No. JH-09K/3919).
3. Regional Manager, the Oriental Insurance Co. Ltd. Patna Regional Office, Pirmohani More, P.O. + P.S. Kadam Kuan, Patna 800003. (Insurer of Truck Bearing Registration No. JH-09K/3919).

.... Respondent/s

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Appearance :
For the Appellant/s : Mr. RAJEN SAHAY, Advocate.
For the Respondent No.3 : Mr. Barun Kumar Choudhary, Advocte.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT
Date: 24-09-2015

Heard the parties.

This appeal is directed against the judgment and award dated 23.8.2012 and 23.5.2013 passed by the Additional District and Sessions Judge, Fast Track Court No.5-cum-Motor Accident Claims Tribunal, Patna in Claim Case No.106 of 2010 by which the Tribunal has awarded the compensation applying the multiplier 15 on the basis of age of dependant mother-appellant.

In the present appeal limited question has been raised with regard to choosing of multiplier. As per claim of the appellant the age of the victim-deceased will be the basis for choosing the multiplier whereas from the side of the Insurance Company the age of the dependent will be a proper method for choosing the multiplier. As the Tribunal has taken multiplier as 15 on the basis of the age of the mother who is dependent of the victim having found her age 45 years whereas in the present case the deceased was aged about 28 years. If the age of the deceased is taken the proper multiplier will be 17 whereas if the age of the dependent is taken then the Tribunal cannot be said to have taken in proper multiplier.

Learned counsel for Insurance Company submits that on the basis of the judgment of the Hon'ble Supreme Court in the case of U.P. SRTC v. Trilok Chandra, reported in (1996) 4 SCC 362 the Tribunal has taken the age of dependent for choosing the proper multiplier.

This issue is no longer integra in the view of the judgment of the Hon'ble Supreme Court in the case of Munna Lal Jain and another V. Vipin Kumar Sharma and others, reported in (2015) 6 SCC 347 where the Court has held that the multiplier is to be chosen on the basis of the age of the deceased as always question would arise in case of dependent whether it will age of the eldest or youngest to be taken. In such view of the matter proper method of choosing the multiplier is the age of the deceased as there will be certainty with respect to the age of the deceased. It will be relevant to quote paragraph 11 of the aforesaid judgment:

> "11. The remaining question is only on multiplier. The High Court following Santosh Devi, has taken 13 as the multiplier. Whether the multiplier should depend on the age of the dependants or that of the deceased, has been hanging fire for sometime; but that has been given a quietus by another three-judge Bench decision in Reshma Kumari. It was held that the multiplier is to be used with reference to the age of the deceased. One reason appears to be that there is certainty with regard to the age of the deceased but as far as that of dependants is concerned, there will always be room for dispute as to whether the age of the eldest or youngest or even the average, etc. is to be taken. To quote: Reshma Kumari case, SCC p.88 para 36)
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> "36. In Sarla Verma, this Court has endeavoured to simplify the otherwise complex exercise of assessment of loss of dependency and determination of compensation in a claim made under Section 166. It has been rightly stated in Sarla Verma that the claimants in case of death claim for the purposes of compensation must establish (a) age of the deceased; (b) income of the deceased; and (c) the number of dependants. To arrive at the loss of dependency, the Tribunal must consider (i) additions/deductions to be made for arriving at the income; (ii) the deductions to be made towards the personal living expenses of the deceased; and (iii) the multiplier to be applied with reference to the age of the deceased. We do not think it is necessary for us to revisit the law on the point as we are in full agreement with the view in Sarla Verma."

In such view of the matter, the order of the court below is modified to that extent that in place of taking multiplier 15 the Tribunal is directed to take multiplier 17 and prepare a fresh revised award.

In this view of the matter, the Insurance Company is directed to pay the difference of amount of the award within a period of two months from the date of preparation of award. It will also carry interest at the rate of 8% from the date of filing of the application till the date of actual payment.

Statutory amount deposited in this Court will be remitted back to the court below and the same will be paid to the claimant that will be adjusted against the final amount.

With the aforesaid observation and direction this appeal is allowed.

(Shivaji Pandey, J)

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