

THE HIGH COURT OF TRIPURA
A G A R T A L A

MAC App. No. 31 of 2010

Appellant :

The Oriental Insurance Co. Ltd.,
Represented by its Sr. Divisional Manager,
Divisional Office, Central Road, Kaman
Chowmuhani, Agartala, West Tripura, District.
[Insurer of Vehicle No. TR-02-A-1801 (709)
TATA Model Truck]

By Advocate :

Mr. S. Debnath, Adv.

Claimant-Respondents :

- 1. Smti Bharati Debbarma,**
W/o. Lt. Durjoy Debbarma.
- 2. Smti. Rita Debbarma,**
D/o. Lt. Durjoy Debbarma.
- 3. Sri Ashok Debbarma,**
S/o. Lt. Durjoy Debbarma.
- 4. Sri Samaresh Debbarma,**
S/o. Lt. Durjoy Debbarma.
- 5. Sri Amaresh Debbarma,**
S/o. Lt. Durjoy Debbarma.

(All are permanent residents of Vill. Puniram
Thakur Para, Golaghati, P.S-Bishalgarh, Dist.
West Tripura.

By Advocates :

Ms. R. Purakayastha, Adv.
Mr. R. Dutta, Adv.
Mr. D. C. Nath, Adv.

B E F O R E
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

Date of hearing &
Judgment & Order : **6th April, 2015.**

Whether fit for reporting :

Yes	No
✓	

JUDGMENT & ORDER (Oral)

This appeal by the Oriental Insurance Company Limited is directed against the award dated 12.01.2010 passed by the learned Motor Accident Claims Tribunal, West Tripura, Agartala in T.S(MAC) No.321 of 2008 whereby the Tribunal awarded a sum of Rs.19,13,376/- along with interest @ 6% per annum in favour of the claimants.

[2] In this appeal the insurance company has been raised two issues. The first issue is that the income of the deceased had wrongly been assessed at Rs.16,773/- per month whereas the income was only claimed to be Rs.12,743/- per month. The next contention is that addition of 30% for future prospect is in total violation of the law laid down in ***Sarla Verma(Smt.) and Others Vrs. Delhi Transport Corporation and Another: (2009) 6 SCC 121.***

[3] As far as the income of the deceased is concerned, the claimants themselves in the claim petition claimed the income of the deceased at Rs.12,743/- per month but also claimed that being a Constable he was entitled to thirteen month salary in a year. The salary certificate which has been placed on record also shows that the total emoluments of the claimant was only at Rs.12,743/-. It appears that Rs.4210/- was being deducted on account of GPF, General Insurance, Professional Tax etc. and it appears that the deductions have been added to the total income while computing his salary. This is wholly illegal. The income was Rs.12,743/-, out of this Rs.180/- being paid as Professional Tax had to be deducted which would mean that the disposable income would be Rs.12,563/- per month or Rs.1,63,319/- per year by taking into consideration the fact that in Tripura employees of the Police Department from Constable to Sub-Inspector are paid one month extra salary.

[4] Coming to the question of addition of an amount for future expenses the learned Tribunal has relied upon the judgment of the Apex Court in ***Sarla Verma's*** case . It appears that though the judgment was cited it was not read by the learned Motor Accident Claims Tribunal. If the Officer Presiding of the Motor Accident Claims Tribunal had cared to read only one paragraph of the judgment there could have been no doubt in his mind that as far as the present case is concerned no addition could have been made since the deceased was admittedly almost 56 years of age. Relevant portion of para-24 of the judgment in ***Sarla Verma's*** case of the Apex Court read as follows:

"24. *** In view of the imponderables and uncertainties, we are in favour of adopting as a rule of thumb, an addition of 50% of actual salary to the actual salary income of the deceased towards future prospects, where the deceased had a permanent job and was below 40 years. [Where the annual income is in the taxable range, the words 'actual salary' should be read as 'actual salary less tax']. The addition should be only 30% if the age of the deceased was 40 to 50 years. There should be no addition, where the age of deceased is more than 50 years.*****"**

[5] One, line in a judgment should never be read in isolation. Any judgment should be read completely to understand in what context it was delivered. In view of the fact that the deceased was almost 56 years of age and also keeping in view the law laid down by the Apex Court in ***Sarla Verma's*** case that there should be no addition where the age of the deceased is more than 50 years. I am of the considered view that the learned Tribunal gravely erred in making any addition for future prospects.

[6] As far as the multiplier is concerned keeping in view the age of the deceased the same as per ***Sarla Verma's*** case would be 9 and the total loss would be Rs.14,69,871/-, out of which 25% is deducted for the personal expenses of the deceased because of the fact that there are more than four dependant family members. This means that the total compensation payable

would be Rs.11,02,403/- which is rounded off to Rs.11,02,400/-. In addition thereto the widow is held entitled to Rs.50,000/- for loss of consortium and the claimants are awarded Rs.10,000/- for funeral expenses and Rs.7,500/- for expenses for hospitalization since the deceased remained in hospital for treatment immediately after the accident.

[7] The total compensation is, therefore, assessed at Rs.(11,02,400/- + 50,000/- + 10,000/- + 7,500/-) = Rs.11,69,900/-, which is rounded off to Rs.11,70,000/-. The award is accordingly reduced from Rs.19,13,376/- to Rs.11,70,000/-. The claimant shall also be entitled to interest on the amount of compensation i.e. Rs.11,70,000/- @ 7.5% per annum from the date of filing of the claim petition till deposit of the amount. The amount is apportioned as follows:

Wife : Rs.9,70,000/- (Rupees nine lakh seventy thousand).
All others : Rs.50,000/- (Rupees fifty thousand) each.

Out of the amount of wife, Rs.2,70,000/- be released and remaining be kept in fixed deposit for five years. Amount of others be released.

[8] The appeal is disposed of in the aforesaid terms. No order as to costs.

Send down the LCRs forthwith.

CHIEF JUSTICE