

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 19 January, 2015

+ **MAC.APP.63/2015**

ASHOK SINGH AND ANR. Appellants
Through: Mr. Vikram Gujral, Adv.

versus

RADHE RAMAN AND ANR. Respondents
Through:

CORAM:
HON'BLE MR. JUSTICE G.P.MITTAL

G. P. MITTAL, J. (ORAL)

1. The Appellants challenge the impugned the judgment dated 10.09.2114 passed by the Motor Accident Claims Tribunal (the Claims Tribunal) whereby a compensation of Rs.7,41,366/- was awarded in favour of the Appellants.
2. The only ground of challenge raised in the instant appeal is with regard to the multiplier. The learned counsel for the Appellants relying on the judgment of this Court in *Mohd. Hasnain & Ors. v. Jagram Meena & Ors., 2014 (142) DRJ 303*, argues that the multiplier has always been as per the age of the deceased. The age of the claimants is totally irrelevant.
3. The law was discussed in great detail by me in *Vijay Laxmi & Anr. v.*

Binod Kumar Yadav & Ors., ILR (2012) 6 DEL 447, wherein in paras

4 to 9 this Court has held as under:-

“4. As far as the selection of multiplier is concerned, the law is settled that the choice of multiplier is determined by the age of the deceased or that of the claimants whichever is higher. There is a three Judges Bench judgment of the Supreme Court in U.P. State Road Transport Corporation & Ors. v. Trilok Chandra & Ors., (1996) 4 SCC 362, where the Supreme Court relied on G.M., Kerala SRTC v. Susamma Thomas, (1994) 2 SCC 176 and reiterated that the choice of the multiplier is determined by the age of the deceased or that of the claimants whichever is more. Para 12 of the report is extracted hereunder:-

“12. For concluding the analysis it is necessary now to refer to the judgment of this Court in the case of General Manager, Kerala State Road Transport, v. Susamma Thomas: (1994) 2 SCC 176. In that case this Court culled out the basic principles governing the assessment of compensation emerging from the legal authorities cited above and reiterated that the multiplier method is the sound method of assessing compensation. The Court observed:

“The multiplier method involves the ascertainment of the loss of dependency or the multiplicand having regard to the circumstances of the case and capitalizing the multiplicand by an appropriate multiplier. The choice of the multiplier is determined by the age of the deceased (or that of the claimants, whichever is higher) and by the calculation as to what capital sum, if invested at a rate of interest appropriate to a stable economy, would yield the multiplicand by way of annual interest. In ascertaining this, regard should also be had to the fact that ultimately the capital sum should also be consumed-up over the period for which the dependency is expected to last.

The principle was explained and illustrated by a mathematical example:

“The multiplier represents the number of Years' purchase on which the loss of dependency is capitalised. Take for instance a case where annual loss of dependency is Rs. 10,000. If a sum of Rs.1,00,000 is invested at 10% annual interest, the interest will take care of the dependency, perpetually. The multiplier in this case works out to 10. If the rate of interest is 5% per annum and not 10% then the multiplier needed to capitalise the loss of the annual dependency at Rs.10,000 would be 20. Then the multiplier i.e., the number of Years' purchase of 20 will yield the annual dependency perpetually. Then allowance to scale down the multiplier would have to be made taking into account the uncertainties of the future, the allowances for immediate lump sum payment, the period over which the dependency is to last being shorter and the capital feed also to be spent away over the period of dependency is to last etc. Usually in English Courts the operative multiplier rarely exceeds 16 as maximum. This will come down accordingly as the age of the deceased person (or that of the dependents, whichever is higher) goes up.”

5. There is another three Judges' decision of the Supreme Court in *New India Assurance Company Ltd. v. Shanti Pathak (Smt.) & Ors.*, (2007) 10 SCC 1, where in the case of the death of a bachelor, who was aged only 25 years, the multiplier of 5 was applied according to the age of the mother of the deceased, who was about 65 years at the time of the accident. Para 6 of the report is extracted hereunder:-

“6. Considering the income that was taken, the foundation for working out the compensation cannot be faulted. The monthly contribution was fixed at Rs.3,500/-. In the normal course we would have remitted the matter to the High Court for consideration on the materials placed before it. But considering the fact that the matter is pending since long, it would be appropriate to take the multiplier of 5 considering the fact that the mother of the deceased is about 65 years at the time of the accident and age of the father is more than 65 years. Taking into account the monthly contribution at Rs.3,500/- as held by

the Tribunal and the High Court, the entitlement of the claim would be Rs.2,10,000/-. The same shall bear interest @ 7.5% p.a. from the date of the application for compensation. Payment already made shall be adjusted from the amount due.”

6. *Learned counsel for the Appellant referred to Sarla Verma (supra 1) in support of the proposition that age of the deceased is to be taken into consideration for selection of the multiplier. As an example the multiplier taken in various cases such as in Susamma Thomas (supra), U.P. SRTC v. Trilok Chandara, (1996) 4 SCC 362 as clarified in New India Assurance Co. Ltd. v. Charlie, (2005) 10 SCC 720 and the multiplier as mentioned in Second Schedule to the Motor Vehicles Act were compared and it was held that the multiplier as per Column No.4 in the said table was appropriate for application. Sarla Verma (supra) related to the death of one Rajinder Prakash who had left behind his widow, three minor children apart from his parents and the grandfather. Obviously, the age of the deceased was taken into consideration for the purpose of selection of the multiplier as the deceased left behind a widow younger to him, apart from three minor children. It was not laid down as a proposition of law that irrespective of the age of the claimants, the age of the deceased is to be taken into consideration for selection of the multiplier for calculation of the loss of dependency. It is true that in Mohd. Ameeruddin (supra 2) and P.S. Somanathan (supra 3) and National Insurance Company Ltd. v. Azad Singh (supra 5), the Hon'ble Supreme Court applied the multiplier according to the age of the deceased, yet in view of Trilok Chandra (supra) and Shanti Pathak (supra) decided by the three Judges of the Supreme Court, the judgment in Mohd. Ameeruddin (supra 2), P.S. Somanathan (supra 3) and Azad Singh (supra 5) cannot be taken as a precedent for selection of the multiplier.*

7. *In the latest judgment of the Supreme Court in National Insurance Company Ltd. v. Shyam Singh & Ors., (2011) 7 SCC 65, decided on 04.07.2011, the Supreme Court referred to Ramesh Singh & Anr. v.*

Satbir Singh & Anr., (2008) 2 SCC 667 and held that the multiplier as per the age of the deceased or the claimant whichever is higher would be applicable. Para 9 and 10 of the report are apposite:-

“9. This Court in the case of Ramesh Singh & Anr. v. Satbir Singh & Anr., (2008) 2 SCC 667, after referring to the earlier judgments of this Court, in detail, dealt with the law with regard to determination of the multiplier in a similar situation as in the present case. The said findings of this Court are as under:-

“6. We have given anxious consideration to these contentions and are of the opinion that the same are devoid of any merits. Considering the law laid down in New India Assurance Co. Ltd. v. Charlie, AIR 2005 SC 2157, it is clear that the choice of multiplier is determined by the age of the deceased or claimants whichever is higher. Admittedly, the age of the father was 55 years. The question of mother's age never cropped up because that was not the contention raised even before the Trial Court or before us. Taking the age to be 55 years, in our opinion, the courts below have not committed any illegality in applying the multiplier of 8 since the father was running 56th year of his life.”

10. In our view, the dictum laid down in Ramesh Singh (supra) is applicable to the present case on all fours.

Accordingly, we hold that the Tribunal had rightfully applied the multiplier of 8 by taking the average of the parents of the deceased who were 55 and 56 years.”

8. Similarly in Manam Saraswathi Sampoorana Kalavathi & Ors., v. The Manager, APSRTC, Tadepalligudem A.P. & Anr., (2010) 5 SCC 785, decided on 26.03.2010, the multiplier of 13 was applied in case of death of a young bachelor where the mother was 47 years of age.

9. Thus, there is no escape from the conclusion that the multiplier has to be selected as per the age of the deceased or that of the claimants whichever is higher.”

4. Further, the three Judge Bench decision in *U.P. State Road Transport Corporation & Ors. v. Trilok Chandra & Ors.*, (1996) 4 SCC 362 being the earliest in the point of time is also a binding precedent. Even thereafter, in several later judgments, the age of the deceased or of the claimant, whichever is higher has been taken for selection of the multiplier as is mentioned in para 6 of the judgment in *Vijay Laxmi (supra)* extracted above.
5. The appeal is devoid of any merit; the same is accordingly dismissed in limini.
6. Pending applications stand disposed of.

(G.P. MITTAL)
JUDGE

JANUARY 19, 2015

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