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

Date of decision: 19th March, 2015

+ **MAC.APP. 236/2007**

HARPIARI DEVI & ORS. Appellants

Through: Mr. S.S.Sisodia, Adv.

versus

RAM KISHAN & ORS. Respondents

Through: Ms. Isha Khanna, Adv. for
Ms. Aarti Mahajan, Adv. for R-1 &
R-2.
Mr. VijayChandra, Adv. with
Ms. Sonia Sharma, Adv. for R-3.

CORAM:

HON'BLE MR. JUSTICE G.P.MITTAL

G. P. MITTAL, J. (ORAL)

1. The appeal is for enhancement of compensation of ₹3,85,000/- awarded by the Motor Accident Claims Tribunal (the Claims Tribunal) for the death of Inderjeet, who suffered fatal injuries in a motor vehicular accident which occurred on 05.06.2005.
2. During inquiry before the Claims Tribunal, it was claimed that the accident was caused on account of rash and negligent driving of Ram Kishan, driver of the DTC bus bearing registration No.DL-1PB-1895. The bus was insured with National Insurance Company Limited. The

deceased was working as a supervisor with M/s. Sonia Electricals Pvt. Ltd. and was getting a salary of ₹6300/- per month.

3. On appreciation of evidence, the Claims Tribunal found that there was contributory negligence on the part of the deceased to the extent of 30%. The Claims Tribunal declined to believe the income of the deceased to be ₹6300/- per month and proceeded to award compensation on the basis of minimum wages of an unskilled worker. Since the deceased was a bachelor, the Claims Tribunal took 1/3 of the deceased income towards personal and living expenses and applied a multiplier of '18', as per the age of the deceased to compute the loss of dependency. On awarding further sums towards non-pecuniary damages, an overall compensation of ₹3,85,000/- was awarded. The Respondent Insurance Company being the insurer was made liable to pay 70% of the awarded compensation, *i.e.* ₹2,70,000/-.
4. The following contentions are raised on behalf of the Appellant:-
 - (i) There was no contributory negligence on the part of the deceased Inderjeet and thus, 30% towards deceased own negligence ought not to have been deducted;

- (ii) The Claims Tribunal ought to have believed the salary of the deceased as ₹6300/- per month which was claimed by the Appellant; and
 - (iii) The Claims Tribunal erred in taking 1/3 of the deceased income towards personal and living expenses.
5. On the other hand, learned counsel for Respondent no.3 urges that the multiplier of 18 adopted by the Claims Tribunal is very high. In case of a bachelor, the multiplier should have been applied as per the age of the mother of the deceased.

CONTRIBUTORY NEGLIGENCE

6. While dealing with the issue of negligence, the Claims Tribunal held as under:-

“PW3 has deposed that on 5.6.05, an accident took place in his presence when he was going for his job. He has also deposed that it was a DTC bus bearing No.1895. He has also deposed that Inderjeet has been going on foot on the road near Patri and that a private bus has also been going on the road and the DTC bus, while overtaking that private bus hit Inderjeet and dragged him along for 15-20 ft and that he was seriously injured, though not dead. He has also deposed that public gathered there and he stayed there for about a minute and left the spot, as he had to reach his place of work. He has also deposed that the copy of his election I-card was ex.PW3/1 and had come to the court on the receipt of summons from the Tribunal. He has also deposed that he

had gone to Civil Lines Police Station after 5/6 days to inquire as to what happened to the injured and that he did so, as he could also be in his place. He has also deposed that he came to know from the petitioner No.1 that the present case was pending in Tis Hazari Court and was suggested to say, whatsoever he saw in the accident and became ready. He has also deposed that the driver of the offending vehicle was present at the spot. He has also deposed that the offending vehicle was being run rashly, negligently and with a view to overtake another vehicle.

Though in the petition, it is averred that the deceased was going on foot on the road instead of the patri, on account of vast and heavy garbage lying on the patri on various spots, no cogent evidence to that effect has come to be led. Even the challan Ex.PX and especially the site plan Ex.PW1/6 do not make any mention thereto. As per the site plan Ex.PW1/6, the deceased was about 3 steps away from the patri on the road when the accident occurred, while the total width of the road is shown to be 9 steps. It implies therefrom that the deceased was quite far off the patri and that too on a road, on which there is substantial movement of traffic. In the absence of any sufficient reason to not to move on the patri and walk on the road and that too quite far off from the patri on a busy road, does reflect some negligence attributable to the deceased. At the same time, though the respondent Nos. 1 & 2 have averred in the written statement that the deceased had suddenly come in front of the bus, being under the influence of liquor/intoxication, no evidence in support thereof has come to be led. Neither the MLC nor the PM report forming part of challan Ex.PX, even indicate that the deceased was under any kind of intoxication. In the given situation, it cannot be taken that the deceased had suddenly come in front of the bus and was by himself responsible for the accident. Drivers of the vehicles by themselves are equally required to be vigilant while driving their vehicles and take all the precautions to prevent accidents. The injured, as per the PM report, forming part of challan Ex.PX by itself shows

that the injured sustained various crush injuries on his person. The nature of the injuries by itself suggest for the deceased having been crushed badly under the offending vehicle, which is possible only when the vehicle would have been driven at a high speed and quite rashly. Had the offending vehicle being driven cautiously, I do not see any reason as to why the person walking on the road could not have been seen by the driver from a safe distance and the accident averted. Taking in account the totality of the facts and circumstances, I have no hesitation in concluding that the accident was a result of the contributory negligence of the driver respondent No.1 and the deceased and the ratio thereof is taken at 70:30. Issue in hand is answered accordingly.”

7. I have the Trial Court record before me. I have perused the site plan. The deceased was at a distance of three paces from the pavement while the accident took place at point ‘A’. It was the main road having heavy traffic. It was the responsibility of the deceased to have walked on the pavement and even if, there was any ground to get down from the pavement, he should have been very close to the pavement. Having considered all the circumstances and the reasoning as given by the Claims Tribunal, I affirm the finding reached by the Claims Tribunal that there was negligence to the extent of 30% of the deceased.

MULTIPLICAND AND COMPENSATION

8. To prove the deceased income a reference has to be made to the initial case set up by the Appellants. It was specifically stated that the deceased was employed as a supervisor with M/s. Sonia Electricals Pvt. Ltd., 2875-A, Sant Nagar, Delhi. It was stated that he was getting a salary of Rs.6,000/- per month. The claim Petition was filed on 17.08.2005. The written statement was filed by the driver of the DTC on 07.11.2005 wherein the averments with regard to deceased employment and income were not specifically denied. Similarly, in the written statement filed by National Insurance Company Limited (the Insurer) in reply to paras 4 to 6 of the Petition, it was stated that the Petitioner be put to strict proof of the same.
9. The Appellants produced PW-2 Mr. Baldev Raj Taneja, owner of the firm M/s. Sonia Electricals. He stated that the deceased was being paid a sum of Rs.6300/- per month including a sum of Rs.300/- towards mobile charges. He proved the certificate Ex.PW-2/1. It is true that the Appellants had not produced any document with regard to the deceased employment with M/s. Sonia Electricals or his salary of Rs.6300/- per month, but at the same time, the Insurance Company had the resources to get the facts, as stated in the Claim Petition and as

deposed by PW-2 verified. At least, Respondent Insurance Company could have got some evidence whether the firm M/s. Sonia Electricals Pvt. Ltd. was in existence at the given address and if Mr. Baldev Raj Taneja was its proprietor. That having not been done, on the test of preponderance of probability, I will believe the income of the deceased as given in the certificate Ex.PW-2/1 and as deposed by Mr. Baldev Raj Taneja, proprietor of the firm M/s. Sonia Electricals Pvt. Ltd.

10. A sum of Rs.300/- was being paid to the deceased towards mobile charges, which may be incidental to the employment. Thus, I will take the income of the deceased for the purpose of computation of loss of dependency as Rs.6,000/- per month.
11. The deceased had the responsibility of younger siblings who were Petitioners no.3 to 5 before the Claims Tribunal. Parents of the deceased were poor persons and *jhuggi* dwellers. The deceased had the responsibility of his younger siblings till they had settled. Thus, relying on *Sarla Verma (Smt.) & Ors. v. Delhi Transport Corporation & Anr., (2009) 6 SCC 121*, I will take the personal expenses of the deceased to be 1/3 as against 2/3 taken by the Claims Tribunal.

12. As far as multiplier is concerned, it is settled in *General Manager, Kerala State Road Transport Corporation, Trivandrum v. Susamma Thomas (Mrs.) and Ors.* (1994) 2 SCC 176, reiterated in three Judge Bench decision of the Supreme Court in *U.P. SRTC v. Trilok Chandara*, (1996) 4 SCC 362 and subsequently followed in three Judge Bench decision in *New India Assurance Company Limited v. Shanti Pathak (Smt.) & Ors.*, (2007) 10 SCC 1 that in case of a death of a bachelor, normally multiplier has to be taken as per the age of the mother of the deceased.
13. I had the occasion and examined the issue in great detail in *Vijay Laxmi & Anr. v. Binod Kumar Yadav & Ors.*, ILR (2012) 6 DEL 447 and re-examined the issue in *Oriental Insurance Co. Ltd. v. Kaila Devi & Ors., Ltd.*, MAC.APP. 280/2014, decided on 18.03.2015. In paras 8 to 28 of the report, this Court held as under:-

“8. The question of selection of multiplier was dealt with at great length by me in *Vijay Laxmi & Anr. v. Binod Kumar Yadav & Ors.*, ILR (2012) 6 DEL 447. In that case, the learned counsel for the Appellant had relied on the following judgments (i) *Smt. Sarla Verma & Ors. v. Delhi Transport Corporation & Anr.*, 2009 (6) SCC 121; (ii) *Mohd. Ameeruddin v. United India Insurance Co. Ltd.*, 2010 (12) SCALE 155; (iii) *P.S. Somanathan v. District Insurance Officer, I* (2011) ACC 659 (SC); (iv) *Bilkish v. United India Insurance Co. Ltd. & Anr.*, 2008 (4) SCALE 25; (v) *National Insurance Co.*

Ltd. v. Azad Singh & Ors., 2010 ACJ 2384 (SC); (vi) *Oriental Insurance Co. Ltd. v. Deo Patodi & Ors.*, 2009 ACJ 2359 (SC), and (vii) *Divisional Manager, New India Assurance Co. Ltd. v. T. Chelladurai & Ors.*, 2010 ACJ 382 (SC).

9. I had discussed the law laid down in the earlier stated judgments and had further referred to the judgments in *General Manager, Kerala State Road Transport Corporation, Trivandrum v. Susamma Thomas (Mrs.) and Ors.*, (1994) 2 SCC 176; *U.P. SRTC v. Trilok Chandara*, (1996) 4 SCC 362; *Fakeerappa v. Karanataka Cement Pipe Factory*, (2004) 2 SCC 473 and *New India Assurance Company Limited v. Shanti Pathak (Smt.) & Ors.*, (2007) 10 SCC 1 to hold that the multiplier has to be selected as per the age of the deceased or the Claimant whichever is higher.

10. Learned counsel for Respondent No.1 has submitted that in view of the three Judge Bench decision in *Reshma Kumari & Ors.* and a later judgment of the Supreme Court in *M. Mansoor & Anr.*, the judgment in *Vijay Laxmi* (*supra*) of this Court needs to be revisited and the multiplier has to be as per the age of the deceased and age of the Claimant is not at all relevant for selection of the multiplier.

11. Section 168 of the Motor Vehicles Act, 1988 (the Act) enjoins a Claims Tribunal to determine the amount of compensation which is just and reasonable. It can neither be a source of profit nor should be a pittance. In other words, it should not be meager nor should be a windfall. In this connection, a reference may be made to the report of the Supreme Court in *State of Haryana v. Jasbir Kaur*, (2003) 7 SCC 484, which dealt with the grant of compensation in case of injury which principles equally apply in case of award of compensation in fatal accident cases. In para 7, the Supreme Court held as under:

“7. It has to be kept in view that the Tribunal constituted

under the Act as provided in Section 168 is required to make an award determining the amount of compensation which is to be in the real sense 'damages' which in turn appears to it to be 'just and reasonable'. It has to be borne in mind that compensation for loss of limbs or life can hardly be weighed in golden scales. But at the same time it has to be borne in mind that the compensation is not expected to be a windfall for the victim. Statutory provisions clearly indicate that the compensation must be 'just and it cannot be a bonanza; not a source of profit; but the same should not be a pittance. The courts and tribunals have a duty to weigh the various factors and quantify the amount of compensation, which should be just. What would be 'just' compensation is a vexed question. There can be no golden rule applicable to all cases for measuring the value of human life or a limb. Measure of damages cannot be arrived at by precise mathematical calculations. It would depend upon the particular facts and circumstances, and attending peculiar or special features, if any. Every method or mode adopted for assessing compensation has to be considered in the background of 'just' compensation which is the pivotal consideration. Though by use of the expression 'which appears to it to be just' a wide discretion is vested in the Tribunal, the determination has to be rational, to be done by a judicious approach and not the outcome of whims, wild guesses and arbitrariness. The expression 'just' denotes equitability, fairness and reasonableness, and non-arbitrary. If it is not so it cannot be just."

12. Initially, the trend of the Courts was to ascertain the life expectancy, deduct the age of the deceased and to award the compensation on the basis of the residual life span. The Courts started deducting certain sums out of the sum as arrived above on account of lump sum payment.

13. However, in General Manager, Kerala State Road Transport Corporation, Trivandrum v. Susamma Thomas (Mrs.) and Ors., (1994) 2 SCC 176, an attempt was made

for the first time to award just and reasonable compensation on the basis of the multiplier method. The Supreme Court referred to the report in Gobald Motor Service Ltd. & Anr. v. R.M.K. Veluswami & Ors., AIR 1962 SC 1 and observed that actual pecuniary loss can be ascertained only by balancing, on one hand, the loss to the Claimant of the future pecuniary benefits and on the other hand, any pecuniary advantage which from whatever sources comes to them by reason of death. Paras 8 and 9 of the report in Susamma Thomas (Mrs.) (supra) are extracted hereunder:-

“8. The measure of damage is the pecuniary loss suffered and is likely to be suffered by each dependant. Thus “except where there is express statutory direction to the contrary, the damages to be awarded to a dependant of a deceased person under the Fatal Accidents Acts must take into account any pecuniary benefit accruing to that dependant in consequence of the death of the deceased. It is the net loss on balance which constitutes the measure of damages.” (Per Lord Macmillan in Davies v. Powell [(1942) AC 601, 617 : (1942) 1 All ER 657 (HL)] .) Lord Wright in the same case said, “The actual pecuniary loss of each individual entitled to sue can only be ascertained by balancing on the one hand the loss to him of the future pecuniary benefit, and on the other any pecuniary advantage which from whatever source comes to him by reason of the death”. These words of Lord Wright were adopted as the principle applicable also under the Indian Act in Gobald Motor Service Ltd. v. R.M.K. Veluswami [AIR 1962 SC 1 : (1962) 1 SCR 929 : 1962 MLJ (Cri) 120] where the Supreme Court stated that the general principle is that the actual pecuniary loss can be ascertained only by balancing on the one hand the loss to the claimants of the future pecuniary benefit and on the other any pecuniary advantage which from whatever source comes to them by reason of the death, that is, the balance of loss and gain to a dependant by the death, must be ascertained.

9. The assessment of damages to compensate the

dependants is beset with difficulties because from the nature of things, it has to take into account many imponderables, e.g., the life expectancy of the deceased and the dependants, the amount that the deceased would have earned during the remainder of his life, the amount that he would have contributed to the dependants during that period, the chances that the deceased may not have lived or the dependants may not live up to the estimated remaining period of their life expectancy, the chances that the deceased might have got better employment or income or might have lost his employment or income altogether.”

14. The Supreme Court referred to Davies v. Powell, (1942) AC 601 and Nance v. British Columbia Electric Railway Company Limited, (1951) AC 601 and in paras 13 and 14 of the report in Susamma Thomas (Mrs.), the Supreme Court observed as under:-

“13. 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.

14. The considerations generally relevant in the selection of multiplicand and multiplier were adverted to by Lord Diplock in his speech in Mallett case [Mallett v. McMonagle, (1970) AC 166 : (1969) 2 All ER 178 (HL)] where the deceased was aged 25 and left behind his widow of about the same age and three minor children. On the question of selection of multiplicand Lord Diplock observed:

“The starting point in any estimate of the amount of the ‘dependency’ is the annual value of the material benefits provided for the dependants out of the earnings of the deceased at the date of his death. But ... there are many factors which might have led to variations up or down in the future. His earnings might have increased and with them the amount provided by him for his dependants. They might have diminished with a recession in trade or he might have had spells of unemployment. As his children grew up and became independent the proportion of his earnings spent on his dependants would have been likely to fall. But in considering the effect to be given in the award of damages to possible variations in the dependency there are two factors to be borne in mind. The first is that the more remote in the future is the anticipated change the less confidence there can be in the chances of its occurring and the smaller the allowance to be made for it in the assessment. The second is that as a matter of the arithmetic of the calculation of present value, the later the change takes place the less will be its effect upon the total award of damages. Thus at interest rates of 4½ per cent the present value of an annuity for 20 years of which the first ten years are at £ 100 per annum and the second ten years at £ 200 per annum, is about 12 years’ purchase of the arithmetical average annuity of £ 150 per annum, whereas if the first ten years are at £ 200 per annum and the second ten years at £ 100 per annum the present value is about 14 years’ purchase of the arithmetical mean of £ 150 per annum. If therefore the chances of variations in the ‘dependency’ are to be reflected in the multiplicand of which the years’ purchase is the multiplier, variations in the dependency which are not expected to take place until after ten years should have only a relatively small effect in increasing or diminishing the ‘dependency’ used for the purpose of assessing the damages.””

15. The purpose of adopting the multiplier as per the age of the deceased or as per the age of the Claimant whichever is higher was that if the Claimant is of much higher age, particularly in case of death of a bachelor

where the mother or for that matter the parents may be double the age of the deceased, the dependency is to come to an end in a much lesser period as against the dependency of a widow or minor children of a deceased. In any case, the deceased was not to support more than his own life span and thus, by providing the dependency to the Claimants, it was held that the dependency has to be as per the age of the deceased or the Claimant whichever is higher.

16. The law laid down in Susamma Thomas (Mrs.) (supra) with regard to adoption of multiplier method and selection of multiplier according to the age of the deceased or the Claimant whichever is higher was affirmed by a three Judge Bench decision in U.P. SRTC v. Trilok Chandara, (1996) 4 SCC 362. The three Judge Bench laid down that the multiplier cannot in all cases be solely dependant on the age of the deceased and the age of the parents would also be relevant in case of death of a bachelor in the choice of multiplier. In para 18 of the report of the Supreme Court in Trilok Chandara (supra), it was observed as under:-

“18..... Besides, the selection of multiplier cannot in all cases be solely dependant on the age of the deceased. For example, if the deceased, a bachelor, dies at the age of 45 and his dependants are his parents, age of the parents would also be relevant in the choice of the multiplier.....”

17. There was some confusion as to the selection of the multiplier because of the multiplier table as given in the Second Schedule of the Act under Section 163-A which was inserted w.e.f. 14.11.1994. Some of the cases had adopted the multiplier as given in the Second Schedule. Although, the three Judge Bench in Trilok Chandra (supra) had noticed some clerical mistakes in the multiplier table as given in the Second Schedule, it stated that the said table can be taken as a guide. Noticing the wide variations in the selection of multiplier, a two Judge Bench of the Supreme Court in Sarla Verma (Smt.) &

Ors. v. Delhi Transport Corporation & Anr., (2009) 6 SCC 121 noted the multiplier as adopted in Susamma Thomas, Trilok Chandra and New India Assurance Company Limited v. Charlie & Anr. (2005) 10 SCC 720 and in the Second Schedule and in para 40 of the report it compared the same in a tabulated form which is extracted hereunder:-

<i>Age of the deceased</i>	<i>Multiplier scale as envisaged in Susamma Thomas[(1994) 2 SCC 176 : 1994 SCC (Cri) 335]</i>	<i>Multiplier scale as adopted by Trilok Chandra [(1996) 4 SCC 362]</i>	<i>Multiplier scale in Trilok Chandra⁴as clarified in Charlie[(2005) 10 SCC 720 : 2005 SCC (Cri) 1657]</i>	<i>Multiplier specified in Second Column in the Table in Second Schedule to the MV Act</i>	<i>Multiplier actually used in Second Schedule to the MV Act (as seen from the quantum of compensation)</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>	<i>(6)</i>
Up to 15 yrs	-	-	-	15	20
15 to 20 yrs	16	18	18	16	19
21 to 25 yrs	15	17	18	17	18
26 to 30 yrs	14	16	17	18	17
31 to 35 yrs	13	15	16	17	16
36 to 40 yrs	12	14	15	16	15
41 to 45 yrs	11	13	14	15	14
46 to 50 yrs	10	12	13	13	12
51 to 55 yrs	9	11	11	11	10
56 to 60 yrs	8	10	09	8	8
61 to 65 yrs	6	08	07	5	6
Above 65 yrs	5	05	05	5	5

18. The Supreme Court with a view to having a uniform multiplier held that the multiplier as given in Column (4) of the above table should be usually followed. In paras 41 and 42 of the report in Sarla Verma (Smt.), the Supreme Court observed:-

“41. Tribunals/courts adopt and apply different operative multipliers. Some follow the multiplier with reference to Susamma Thomas [(1994) 2 SCC 176 : 1994 SCC (Cri) 335] [set out in Column (2) of the table above]; some follow the multiplier with reference to Trilok Chandra [(1996) 4 SCC 362] , [set out in Column (3) of the table above]; some follow the multiplier with reference to Charlie [(2005) 10 SCC 720 : 2005 SCC (Cri) 1657] [set out in Column (4) of the table above];

many follow the multiplier given in the second column of the table in the Second Schedule of the MV Act [extracted in Column (5) of the table above]; and some follow the multiplier actually adopted in the Second Schedule while calculating the quantum of compensation [set out in Column (6) of the table above]. For example if the deceased is aged 38 years, the multiplier would be 12 as per *Susamma Thomas*[(1994) 2 SCC 176 : 1994 SCC (Cri) 335] , 14 as per *Trilok Chandra* [(1996) 4 SCC 362] , 15 as per *Charlie* [(2005) 10 SCC 720 : 2005 SCC (Cri) 1657] , or 16 as per the multiplier given in Column (2) of the Second Schedule to the MV Act or 15 as per the multiplier actually adopted in the Second Schedule to the MV Act. Some tribunals, as in this case, apply the multiplier of 22 by taking the balance years of service with reference to the retiring age. It is necessary to avoid this kind of inconsistency. We are concerned with cases falling under Section 166 and not under Section 163-A of the MV Act. In cases falling under Section 166 of the MV Act, *Davies method* [*Davies v. Powell Duffryn Associated Collieries Ltd.*, 1942 AC 601 : (1942) 1 All ER 657 (HL)] is applicable.

42. We therefore hold that the multiplier to be used should be as mentioned in Column (4) of the table above (prepared by applying *Susamma Thomas* [(1994) 2 SCC 176 : 1994 SCC (Cri) 335] , *Trilok Chandra* [(1996) 4 SCC 362] and *Charlie*[(2005) 10 SCC 720 : 2005 SCC (Cri) 1657]), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years.”

19. It may be noted that the Supreme Court had gone into the history of adoption of multiplier method and referred to *Nance v. British Columbia Electric Railway Company Limited*, (1951) AC 601 and

Davies v. Powell, [(1942) AC 601.

20. *Sarla Verma (Smt.) & Ors. v. Delhi Transport Corporation & Anr., (2009) 6 SCC 121* related to the death of a Scientist who died leaving behind his widow, three minor children, parents and grandfather. Thus, the Supreme Court while laying down that the multiplier has to be adopted as per Column 4 of the table as per the age of the deceased, was generally referring to the award of compensation in cases of death of a person who had a family consisting of widow, children and parents. Of course, general principles with regard to award of compensation in case of death of a bachelor were also laid down by the Supreme Court in *Sarla Verma (Smt.)*, but it was not specifically laid down that even in the case of death of a bachelor, the age of the Claimants who may be aged parents will be totally irrelevant.

21. However, in *Amrit Bhanu Shali v. National Insurance Company Limited, (2012) 11 SCC 738*, the Supreme Court stated that the selection of the multiplier has to be as per the age of the deceased and not on the basis of the age of the dependants. It was a case which related to the death of a bachelor.

22. On account of divergence of opinion in the earlier cases, a reference to a larger Bench was made by a two Judge Bench in *Reshma Kumari v. Madan Mohan & Anr., (2009) 13 SCC 422*. The question of award of compensation in relation to multiplier and future prospects was gone into at great length by a three Judge Bench of the Supreme Court in *Reshma Kumari & Ors. v. Madan Mohan & Anr., (2013) 9 SCC 65*. The two referred questions by *Reshma Kumari v. Madan Mohan & Anr., (2009) 13 SCC 422* were:-

“1.1. Whether the multiplier specified in the Second Schedule appended to the Motor Vehicles Act, 1988 (for short “the 1988 Act”) should be scrupulously applied in all cases” and

1.2. Whether for determination of the multiplicand, the

1988 Act provides for any criterion, particularly as regards determination of future prospects?”

23. While answering the points, in Para 43, the Supreme Court observed as under:-

“43. In what we have discussed above, we sum up our conclusions as follows:

43.1. In the applications for compensation made under Section 166 of the 1988 Act in death cases where the age of the deceased is 15 years and above.

43.2. In cases where the age of the deceased is up to 15 years.

43.3. As a result of the above, while considering the claim applications made under Section 166 in death cases where the age of the deceased is above 15 years, there is no necessity for the Claims Tribunals to seek guidance or for placing reliance on the Second Schedule in the 1988 Act.

43.4. The Claims Tribunals shall follow the steps and guidelines stated in para 19 of Sarla Verma v. DTC, (2009) 6 SCC 121 for determination of compensation in cases of death.....”

24. In Reshma Kumari & Ors. v. Madan Mohan & Anr., (2013) 9 SCC 65, these were general observations that the steps and guidelines stated in para 19 of Sarla Verma (Smt.) have to be followed. In Sarla Verma (Smt.) it was laid down that having regard to the age of the deceased and period of active career, the active multiplier should be selected and the multiplier should be chosen from the table with reference to the age of the deceased. As I have observed above, it was not the intention in Sarla Verma (Smt.) to apply the multiplier of 18 in case of death of a bachelor aged 25 years where the dependants may only be the aged parents. Thus, in Reshma Kumari also, it was not laid down that the multiplier has to be according to the age of the deceased

even when the deceased is a bachelor having dependency of the parents only.

25. *Of course, in M. Mansoor & Anr. v. United India Insurance Company Limited & Anr., (2013) 15 SCC 603, the two Judge Bench observed that the multiplier has to be as per the age of the deceased and even in case of death of a bachelor aged 24 years, the multiplier will be 18.*

26. *However, there is a three Judge Bench decision of the Supreme Court in New India Assurance Company Limited v. Shanti Pathak (Smt.) & Ors., (2007) 10 SCC 1 wherein a bachelor aged 25 years lost his life in a motor vehicular accident which occurred on 11.11.2002. The Claims Tribunal adopted a multiplier of 17, as per the age of the deceased (25 years). On appeal filed by the New India Assurance Company Limited before the High Court, it was contented that the multiplier has to be as per the age of the Claimants (in that case) and not as per the age of the deceased. The Division Bench of High Court of Uttarakhand declined to accept the contention and dismissed the appeal. In the SLP filed by the Insurance Company, the multiplier of 17 was reduced to '5' on the age of the mother of the deceased being 65 years.*

27. *Also, in the latest judgment of the Supreme Court in Ashvinbhai Jayantilal Modi v. Ramkaran Ramchandra Sharma & Anr., (2015)2 SCC 180, a two Judge Bench of the Supreme Court dealt with the questions of multiplier and the appropriate multiplier in case of death of a bachelor in the said case was taken as 13, keeping in mind the age of the parents of the deceased. Para 11 of the report is extracted hereunder:-*

“11. The deceased was a diligent and outstanding student of medicine who could have pursued his MD after his graduation and reached greater heights. Today, medical practice is one of the most sought after and rewarding professions. With the tremendous increase in

demand for medical professionals, their salaries are also on the rise. Therefore, we have no doubt in ascertaining the future income of the deceased at Rs 25,000 p.m. i.e. Rs 3,00,000 p.a. Further, deducting 1/3rd of the annual income towards personal expenses as per Oriental Insurance Co. Ltd. v. Deo Patodi [(2009) 13 SCC 123 : (2009) 5 SCC (Civ) 29 : (2010) 1 SCC (Cri) 963] and applying the appropriate multiplier of 13, keeping in mind the age of the parents of the deceased, as per the guidelines laid down in Sarla Verma case [Sarla Verma v. DTC, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002], we arrive at a total loss of dependency at Rs 26,00,000 [(Rs 3,00,000 minus $\frac{1}{3} \times$ Rs 3,00,000) $\times$ 13]......”

28. Thus, right from the two Judge Bench decision in General Manager, Kerala State Road Transport Corporation, Trivandrum v. Susamma Thomas (Mrs.) and Ors., (1994) 2 SCC 176, which for the first time held that the multiplier method is the best way of awarding just compensation, which was approved in U.P. SRTC v. Trilok Chandara, (1996) 4 SCC 362, wherein it was held that the multiplier has to be as per the age of the deceased or the Claimant whichever is higher, which is reiterated in New India Assurance Company Limited v. Shanti Pathak (Smt.) & Ors., (2007) 10 SCC 1 by applying the multiplier as per the age of the mother of the deceased (bachelor), the consensus of the larger Bench decisions seems to be that the multiplier has to be selected as per the age of the deceased or the Claimant whichever is higher. The judgment in Vijay Laxmi & Anr. v. Binod Kumar Yadav & Ors., ILR (2012) 6 DEL 447 has thus correctly interpreted the law. Three Judge Bench decision in U.P. SRTC v. Trilok Chandara, (1996) 4 SCC 362 shall be taken as a binding precedent in the matter of selection of multiplier as per the age of the deceased or the Claimant.”

14. Thus, there is no manner of doubt that the multiplier has to be as per the age of the mother of the deceased because the younger siblings were to settle in their life for a couple of years. Smt. Harpiari Devi, mother of the deceased had given her age on the date of recording her statement as 60 years. Thus, on the date of the accident, her age is taken as 59 years. Consequently, the multiplier will be 9 as against 18 taken by the Claims Tribunal.
15. The loss of dependency therefore, will come to ₹4,32,000/- ($6000/- \times \frac{2}{3} \times 12 \times 9$).
16. Following three Judge Bench decision in *Rajesh & Ors. v. Rajbir Singh & Ors.*, (2013) 9 SCC 54, I am inclined to award a sum of ₹1,00,000/- towards loss of love and affection, ₹25,000/- towards funeral expenses and ₹10,000/- towards loss to estate.
17. The overall compensation thus comes to ₹5,67,000/-. After deducting 30% towards contributory negligence, the compensation payable by Respondent no.3 comes to ₹3,96,900/-.
18. The compensation is accordingly enhanced by ₹1,26,900/- which shall carry interest @ 8% per annum from the date of filing of the Claim Petition.

19. 10% of the enhanced compensation along with proportionate interest shall be payable to Appellants no.2 to 5 each. Rest 60% along with proportionate interest shall be payable to Appellant no.1, mother of the deceased.
20. 50% of the enhanced compensation payable to Appellant no.1 shall be held in Fixed Deposit for a period of one year. Rest of the compensation awarded to Appellant no.1 and the entire compensation awarded to Appellants no.2 to 5 shall be released on deposit.
21. The enhanced compensation along with proportionate interest shall be deposited by the Insurance Company along with the interest within six weeks, failing which the Appellants shall be entitled to interest @ 12% per annum from the date of this judgment.
22. The appeal is allowed in above terms.
23. Pending applications, if any, also stand disposed of.

(G.P. MITTAL)
JUDGE

MARCH 19, 2015

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