

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO-5511-2013 (O&M)
(MACT No.231 of 2011)
Date of decision: 16.5.2016

Rohtash and another

...Appellants

Versus

Mohd. Azad and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Rajesh Sheoran, Advocate for the appellants

Mr.MB Jain, Advocate for respondent No.3

SNEH PRASHAR, J.

By way of this appeal, appellants-Rohtash and his wife seek enhancement of compensation awarded to them by learned Motor Accident Claims Tribunal, Bhiwani (for short, “the Tribunal”) vide the award dated 30.5.2013 passed in MACT Petition No.231 of 2011 on account of death of Sanjay Kumar son of the appellants, who lost his life in a vehicular accident that took place on 30.7.2011.

The submissions made by Mr. Rajesh Sheoran, Advocate representing the appellants and Mr. MB Jain, Advocate for respondent No.3 have been heard and record perused.

Learned counsel for the appellants-claimants argued that as the deceased was 27 years aged and was unmarried, the multiplier to the amount determined as loss of dependency per annum, should have been applied as per the age of the deceased and not as per the age of the

parents of the deceased. No addition was made to the income of the deceased computing future prospects. Nothing was awarded to the claimants on account of love and affection.

On the other hand, learned counsel for the respondent-insurance company argued that the multiplier of '11' was rightly applied by learned Tribunal as per the age of the parents of the deceased. He relied upon **New India Assurance Company Ltd. vs. Smt. Shanti Pathak and others 2007(3) RCR (Civil) 593.**

The deceased was a young boy aged 27 years. He was proved to be drawing a salary of Rs.5741/-, which calls for no intervention. As regards, application of suitable multiplier, Hon'ble Supreme Court in **Reshma Kumari and others vs. Madan Mohan and another 2013(2) RCR (Civil) 660** held as under:-

“33. We have already noticed the table prepared in Sarla Verma for the selection of multiplier. The table has been prepared in Sarla Verma having regard to the three decisions of this Court, namely, Susamma Thomas, Trilok Chandra and Charlie for the claims made under Section 166 of the 1988 Act. The Court said that multiplier shown in Column (4) of the table must be used having regard to the age of the deceased. Perhaps the biggest advantage by employing the table prepared in Sarla Verma is that the uniformity and consistency in selection of the multiplier can be achieved. The assessment of extent of dependency depends on examination of the unique situation of the individual case. Valuing the dependency or the multiplicand is to some extent an arithmetical exercise. The multiplicand is normally

based on the net annual value of the dependency on the date of the deceased's death. Once the net annual loss (multiplicand) is assessed, taking into account the age of the deceased, such amount is to be multiplied by a 'multiplier' to arrive at the loss of dependency. 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 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 the end, the conclusion drawn is as under:-

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

- (i) 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, the Claims Tribunals shall select the multiplier as indicated in Column (4) of the table prepared in Sarla Verma read with para 42 of that judgment.*
- (ii) In cases where the age of the deceased is upto 15*

years, irrespective of the Section 166 or Section 163A under which the claim for compensation has been made, multiplier of 15 and the assessment as indicated in the Second Schedule subject to correction as pointed out in Column (6) of the table in Sarla Verma should be followed.

(iii) 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.

(iv) The Claims Tribunals shall follow the steps and guidelines stated in para 19 of Sarla Verma for determination of compensation in cases of death.

(v) While making addition to income for future prospects, the Tribunals shall follow paragraph 24 of the Judgment in Sarla Verma. (vi) Insofar as deduction for personal and living expenses is concerned, it is directed that the Tribunals shall ordinarily follow the standards prescribed in paragraphs 30, 31 and 32 of the judgment in Sarla Verma subject to the observations made by us in para 38 above.

(vii) The above propositions mutatis mutandis shall apply to all pending matters where above aspects are under consideration.”

A similar view has been taken by Hon'ble Supreme Court in **Amrit Bhanu Shali and others vs. National Insurance Co. Ltd. and others 2012 ACJ 2002**. In **Munna Lal Jain and anr. vs. Vipin Kumar Sharma and others (2015) 6 SCC 347** following **Reshma Kumari's** case it has been held as under:-

“The remaining question is only on multiplier. The High Court following Santosh Devi (supra), 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 (supra). 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.”

Following the law laid down in **Reshma Kumari's case (supra)**, which is subsequent to the case law cited by learned counsel for the Insurance Company i.e. **Smt. Shanti Pathak's case (supra)**, since the deceased was 27 years old at the time of occurrence, the suitable multiplier would be 17.

Deduction of 50% of the income towards personal and living expenses of the deceased was rightly made by learned Tribunal. Apparently, no addition was made for computing future prospects of the deceased. Following the law laid down in **Rajesh and others vs. Rajbir Singh and others 2013 (9) SCC 54**, there has to be 50% addition to the actual income of the deceased considering his future prospects.

The amount awarded on account of funeral expenses being on the lower side is enhanced to Rs.25,000/-. As nothing was awarded on account of loss of love and affection to the mother, a sum of

Rs.50,000/- is allowed on that count.

Accordingly, the total compensation comes to Rs.9,53,373/- i.e. Rs.5741/- (monthly income) + 50% (future prospects) -1/2 (deduction on account of personal and living expenses of the deceased) x 12 x 17 (multiplier) + Rs.75000/- (under the conventional heads including the amount already awarded). The enhanced amount of Rs.5,54,533/- (9,53,373- 3,98,840) shall be paid to the claimants-appellants within two months from the date of receipt of the certified copy of the judgment, failing which, it shall carry interest @ 7.5% per annum from the date of the filing of appeal till its realisation.

With the above modification in the impugned award, the present appeal is partly allowed.

16.5.2016
gsv

(SNEH PRASHAR)
JUDGE