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

FAO No.7149 of 2015(O&M)

Date of decision: 11.11.2016

Rama Nathan and others …..Appellants

VERSUS

Meet Lal and others .....Respondents

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Ram Pal Verma, Advocate for the appellants.

Mrs. Vandana Malhotra, Advocate for respondent No.3.

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REKHA MITTAL, J.

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Sonepat (in short 'the Tribunal') in regard to death of Gori Shanker in a motor vehicular accident that took place on 15.03.2013.

The Tribunal assessed income of the deceased at Rs.18,027/-, deducted 50% towards personal expenses, adopted a multiplier of 13 as per age of parents of the deceased and computed loss of dependency to the tune of Rs.14,06,100/-. In addition, an amount of Rs.25,000/- for expenses on funeral and transportation and Rs.20,000/- on account of loss of estate was awarded making total compensation to Rs.14,51,100/- payable with interest at the rate of 7.5% per annum from the date of petition till realization.

Counsel for the appellants has submitted that the Tribunal has not given benefit of future prospects to the extent of 50% in the light of judgment of Hon'ble the Apex Court **Rajesh and others Vs. Rajbir Singh and others, 2013 ACJ 140.** The deceased was unmarried son of the claimants Rama Nathan and Geetha. He was less than 25 years of age at the time of occurrence, therefore, admissible multiplier would be 18 in the light of judgment of Hon'ble the Apex Court **Smt. Sarla Verma and others versus Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77;** a three-Judge bench decision in **Reshma Kumari and others Vs. Madan Mohan and another, 2013 ACJ 1253** and **Munna Lal Jain and others versus Vipin Kumar Sharma and others, 2015(3) RCR (Civil) 447**. Another submission made by counsel is that compensation awarded under conventional heads needs enhancement.

Counsel for the insurance company, on the contrary, would urge that as the matter with regard to grant of future prospects is pending consideration before a Larger Bench of Hon'ble the Supreme Court of India, in case the claimants are to be allowed benefit of future prospects, amount representing future prospects along with interest, if any, should not be disbursed to the claimants and the same may be deposited in a Fixed Deposit Receipt till the decision by the Larger Bench. In support of her contention, she has relied upon order passed by Hon'ble the Supreme Court **National Insurance Company Ltd. Vs. Santosh Khandelwal and others**, petition for Special Leave to Appeal (Civil) No.19803/2012.

With regard to multiplier, it is argued that the Tribunal has rightly adopted a multiplier of 13 on the basis of age of parents of the deceased. In support of her contention, she has relied upon judgment of Hon'ble the Supreme Court **Y.P. Shakuntala Vs. Manager, Reliance General Insurance Co. Ltd., 2016 ACJ 2400.**

I have heard counsel for the parties, perused the paper-book particularly the award passed by the Tribunal.

The Tribunal has not allowed benefit of increase in income for future prospects. The mere fact that the question with regard to future prospects is pending consideration before a Larger Bench of the Apex Court is not sufficient to deny the said benefit till the judgment in Rajesh and other's case (supra) is varied or set aside. So far as the plea of the insurance company that the amount representing addition for future prospects along with interest thereon is required to be deposited in a Fixed Deposit Receipt till the decision by the Larger Bench by relying upon order dated 07.05.2013 passed by Hon'ble the Supreme Court, the same deserves to be rejected.

In Santosh Khandelwal's case (supra), the appeal preferred before the Supreme Court was kept pending due to conflicting decisions and directions with regard to deposit was made as an interim measure. As this Court would be finally disposing of the appeal, the insurance company cannot press for an interim arrangement by relying upon order dated 07.05.2013 passed by the Supreme Court.

This brings the Court to the multiplier to be adopted in the given facts and circumstances. In Sarla Verma's case (supra), the Court in an effort to bring uniformity in the process of assessment of compensation in motor vehicular accident cases laid down certain principles with regard to multiplier, deductions and future prospects. The Court held that justice and justness emanate from equality in treatment, consistency and thoroughness in adjudication and fairness and uniformity in the decision-making process and the decisions. While it may not be possible to have mathematical precision or identical awards, in assessing compensation, same or similar facts should lead to awards in the same range. When the factors/inputs are the same and the formula/legal principles are the same, consistency and uniformity and not divergence and freakiness, should be the result of adjudication to arrive at just compensation. If different Tribunals calculate calculations differently on the same facts, the claimant, the litigant, the common man will be confused, perplexed and bewildered. If there is significant divergence among Tribunals in determining the quantum of compensation on similar facts, it will lead to dis-satisfaction and distrust in the system. In that case, Hon'ble Judges were conscious of the fact of death of an unmarried person while dealing with the question of deduction to the extent of 50% by taking a view that the mother alone will be considered as a dependent. Later in Reshma Kumari's case (supra), the multipliers worked out in Sarla Verma's case (supra) were affirmed with an addition that in case age of the deceased is up to 15 years, irrespective of Section 166 or 163-A under which the claim for compensation has been made, multiplier of 15 in the assessment as indicated in the Second Schedule to the Motor Vehicles Act, 1988 subject to correction as pointed out in column 6 of the table prepared in Sarla Verma's case (supra) should be followed. Still later, after the decision in Y.P. Shakuntala's case (supra), the Apex Court in Munna Lal Jain and others case (supra) has held in para 12 quoted thus:-

> "12. 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. To quote:

> "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 view of enunciation of law laid down in Sarla Verma's case (supra) and the judgments rendered by three-Judge Benchs in Reshma Kumari's case (supra) and Munna Lal Jain and another's case (supra), I find it difficult to be persuaded by the submissions of counsel for the insurance company that the Tribunal has adopted a correct multiplier as per age of parents of the deceased in place of age of the victim himself. As the deceased was less than 25 years of age, appropriate multiplier, in the circumstances, would be 18 in place of 13. After allowing benefit of increase in income for future prospects and applying a multiplier of 18, loss of dependency is calculated at Rs.29,20,860/- [Rs.38,94,480/- (Rs.18,030/- (rounded of) x 12 x 18) + Rs.19,47,240/- (50% future prospects) – Rs.29,20,860/- (50% deduction towards personal expenses)].

Under conventional heads, an amount of Rs.25,000/- awarded by the Tribunal for expenditure on funeral and transportation is affirmed. The mother of the deceased is awarded an amount of Rs.50,000/- for loss of love and affection and the claimants shall be entitled to an amount of Rs.25,000/- for loss of estate.

In view of the above, total compensation comes to Rs.30,20,860 and the enhanced compensation is Rs.15,69,760/-

(Rs.30,20,860/- - Rs.14,51,100/-). The enhanced compensation shall carry interest at the rate of 7.5% per annum from the date of petition till realization, payable exclusively to mother of the deceased. The enhanced compensation shall be deposited in a Fixed Deposit Receipt in a nationalized bank for a period of 2 years.

The appeal is partly allowed in the aforesaid terms.

NOVEMBER 11, 2016 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

Whether speaking/reasoned : yes/no

Whether reportable : yes/no