IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-4983-2013 (O&M)
(MACT case No. 06 of 2012)
Date of decision:8.2.2017

Shri Ram General Insurance Company Ltd. ...Appellant

Versus

Roshni and others ...Respondents

FAO-2735-2013

Roshni ...Appellant

Versus

Lakhwinder Singh and others ...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Arun Sharma, Advocate for
Mr.TK Joshi, Advocate for the Insurance Company

Mr.Vinod K.Kanwal, Advocate for
Mr.Ashit Malik, Advocate for the claimant

****

SNEH PRASHAR, J.

CM-21171 & 21173-CII-2013

The applications under Section 5 of the Limitation Act have been filed for condonation of delay of 26 days in refiling and 131 days in filing the appeal.

Despite sufficient opportunity, no reply has been filed by the respondents.

For the reasons enumerated in the applications, the same are allowed and the delay is condoned subject to all just exceptions.

Gauri Shanker
2017.02.28 18:18
I attest to the accuracy and
integrity of this document
Chandigarh

FAO-4983-2013 (O&M)

The above captioned two appeals one FAO-2735-2013 filed by claimant Roshni and the other FAO-4983-2013 filed by the Insurance Company are directed against the award dated 7.1.2013 passed by Motor Accident Claims Tribunal, Panipat (hereinafter referred to as 'the Tribunal') in MACT case No. 06 of 2012, vide which a sum of Rs.4,73,000/- was allowed as compensation to the claimant on account of death of her son Angrej Singh @ Amit in a motor vehicular accident that took place on 1.12.2011.

The submissions made by Mr.Arun Sharma, Advocate representing the Insurance Company and Mr.Vinod K.Kanwal, Advocate for the claimant have been considered.

The only point raised during arguments by learned counsel for the Insurance company is that since the deceased was not in a permanent employment, therefore, learned Tribunal erred by making addition to the actual income assessed computing future prospects of the deceased.

On the other hand, learned counsel for the claimant submits that in view of the law laid down in **Rajesh and others vs. Rajbir Singh and others (2013) 9 SCC 54**, the claimant-mother is entitled to 50% increase in income of the deceased computing future prospects, but learned Tribunal awarded only 30% increase in the income. He further submitted that the multiplier should have been applied according to the age of the deceased and not as per the age of the claimant-mother. No

Gauri Shanker
2017.02.28 18:18
I attest to the accuracy and
integrity of this document
Chandigarh

amount has been awarded towards loss of love and affection to the claimant-mother.

Admittedly, Angrej Singh @ Amit died due to the injuries suffered by him in a road side accident. He was 24 years old and was a bachelor at the time of death. There being no substantive evidence of income and treating the deceased to be a casual labour, learned Tribunal assessed the income of the deceased as Rs.4500/- per month, which appears appropriate.

The argument raised by learned counsel for the Insurance Company that no amount was to be added to the income of the deceased computing future prospects, is devoid of merit. In para No.11 of **Rajesh and others's case (supra),** the Hon'ble Supreme Court has held as under:

> "11. Since, the Court in Santosh Devi's case (supra) actually intended to follow the principle in the case of salaried persons as laid in Sarla Verma's case (supra) and to make it applicable also to the self employed and person on fixed wages, it is clarified that the increase in the case of those groups is not 30% always; it will also have a reference to the age. In other words, in the case of self employed or persons of fixed wages, in case, the deceased victim was below 40 years, there must be an addition of 50% to the actual income of the deceased while computing future prospects. Needless to say that the actual income should be income after paying the tax, if any. Addition should be 30% in case the deceased was in

Gauri Shanker
2017.02.28 18:18
I attest to the accuracy and
integrity of this document
Chandigarh

the age group of 40 to 50 years."

Thus, applying the aforesaid law and in view of the age of the deceased, addition in actual income towards computing future prospects is increased from 30% to 50%.

Regarding application of suitable multiplier, in **Reshma Kumari and others vs. Madan Mohan and another 2013(2) RCR (Civil) 660**, Full Bench of Hon'ble Supreme Court has 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

Gauri Shanker
2017.02.28 18:18
I attest to the accuracy and
integrity of this document
Chandigarh

> 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 conclusions were drawn 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.

Gauri Shanker
2017.02.28 18:18
I attest to the accuracy and
integrity of this document
Chandigarh

> (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 was 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

Gauri Shanker
2017.02.28 18:18
I attest to the accuracy and
integrity of this document
Chandigarh

> 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."

In the present case, the deceased was 24 years aged when he died during the accident. The Motor Vehicles Act, being a beneficial legislation, this Court relies on **Munna Lal Jain's case (supra)**, which is subsequent to the case law cited by learned Tribunal in **Shakti Devi vs. New India Insurance Co. Ltd. 2010(13) SCC 103**. Taking into consideration the age of the deceased, the multiplier of 18 should be appropriate.

Perusal of the award shows that no amount has been awarded towards loss of love and affection to the mother-claimant, therefore, a sum of Rs.50,000/- is allowed to her on that count. The amount awarded under the head of funeral expenses appears to be on the lower side and the same is also enhanced to Rs.25,000/-.

Accordingly, the total compensation comes to Rs.8,11,000/- (4500 (monthly income) +50% (addition towards computing future prospects) - 1/2 (deduction on account of personal and living expenses

Gauri Shanker
2017.02.28 18:18
I attest to the accuracy and
integrity of this document
Chandigarh

of the deceased) x 12 x 18 (multiplier) + 82000 (under conventional heads including the amount already awarded). The enhanced amount of Rs. 3,38,000/- (8,11,000- 4,73,000) shall be paid to the claimant- mother within 45 days from the date of receipt of the certified copy of this judgment, failing which, it shall carry interest @ 7.5 % per annum from the date of filing of the appeal, till its realisation.

Appeal bearing FAO-4983-2013 filed by the Insurance Company is dismissed whereas FAO-2735-2013 filed by the claimant is partly allowed and the impugned award is modified as indicated above.

8.2.2017 **(SNEH PRASHAR)**
gsv **JUDGE**

Whether speaking / reasoned? Yes / No

Whether reportable? Yes / No

Gauri Shanker
2017.02.28 18:18
I attest to the accuracy and
integrity of this document
Chandigarh