IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 9174 of 2014 (O&M)
Date of decision: 14.09.2017

Vinder Devi and another .... *Appellants*

Versus

Rajesh and others ....*Respondents*

Coram: **Hon'ble Mrs. Justice Rekha Mittal**

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Present: Mr. Pankaj Mehta, Advocate
for the appellants

None for respondents No. 1 and 2

Mr. M B Jain, Advocate and
Ms Monisha Beniwal, Advocate
for respondent No. 3

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Rekha Mittal, J. (Oral)

The claimants are in appeal seeking enhancement of compensation with regard to death of Sandeep in a motor vehicular accident that took place on 08.06.2013.

The Tribunal assessed income of the deceased at Rs.4,800/- per month, added 50% for future prospects, deducted 50% for personal expenses and applied multiplier of 14 to compute loss of dependency at Rs.6,04,800/-. In addition, Rs.25,000/- for funeral expenses has been awarded making total compensation to Rs.6,29,800/-.

Counsel for the appellants has submitted that as the deceased was 25 years old unmarried son of the claimants, admissible multiplier would be 18. For this purpose, he has relied upon judgments of Hon'ble the

Supreme Court ***Sarla Verma and others v. Delhi Transport Corporation and another 2009(3) R.C.R. (Civil)*** *77* and ***Munna Lal Jain and another Vs. Vipin Kumar Sharma and others, (2015) 6 SCC 347.*** Another submission made by counsel is that the Tribunal has not awarded any compensation qua loss of love and affection to parents.

Counsel representing the insurance company would urge that the Tribunal has rightly applied multiplier of 14 on the basis of age of parents of the deceased. For this purpose, he has referred to a latest judgment of Hon'ble the Supreme Court ***Meena and ors. Vs. Rani Ammal and anr.,*** arising out of SLP (C) No. 34648/2015, decided on 15.02.2017. Further reference has been made to judgment of the Apex Court ***New India Assurance Co. Ltd. Vs. Shanti Pathak and ors., (2007) 10 SCC 1.***

I have heard counsel for the parties and perused the paper book particularly the award impugned.

The crucial question for adjudication is '*whether the Tribunal was required to adopt multiplier in view of age of the deceased or as per age of the parents as the deceased was their unmarried son'*.

Hon'ble the Supreme Court of India in *Shanti Pathak's case (supra)* allowed multiplier of 5 considering the fact that mother of the deceased was about 65 years at the time of accident and age of the father was more than 65 years. However, Hon'ble the Supreme Court of India in an effort to bring fairness and firmness in the decision making process and the decisions put its best efforts to lay down certain principles with regard to multiplier to be adopted, deduction to be made in regard to personal and living expenses and benefit of future prospect to be allowed for computation of compensation etc. and has held in *Sarla Verma's* case (supra) that when the deceased is between the age bracket of 15-25, multiplier of 18 should be applied. In this case, the Apex Court while dealing with the question of deductions for personal and living expenses adverted to the question of deduction towards personal expenses in case the deceased happens to be bachelor and held that ½ of the income is to be deducted towards personal and living expenses of the deceased if the deceased was a bachelor. In this judgment, Hon'ble Court has also referred to earlier judgment of the Apex Court ***U.P. State Road Transport Corporation v. Trilok Chandra, 1996 (4) SCC 362,*** wherein Hon'ble the Supreme Court has held that age of the parents is also to be taken into consideration for adopting multiplier in case the deceased happens to be a bachelor. The multiplier held to be admissible in view of judgment in *Sarla Verma's* case (supra) was affirmed in a recent decision of Hon'ble the Supreme Court in ***Reshma Kumari and others v. Madan Mohan and another, 2013 (2) R.C.R. (Civil) 660.*** In Reshma Kumari's case (supra), the multiplier adopted in Shanti Pathak's case (supra), in view of age of parents of the deceased was noticed but the Court affirmed the multiplier laid down in *Sarla Verma's* case (supra) as a matter of principle.

Keeping in view authoritative enunciation of law laid down in Sarla Verma's case (supra) and Reshma Kumari's case (supra), I find it difficult to accept contention of the insurance company that multiplier adopted by the Tribunal in the light of age of parents of the deceased is correct.

In the latest judgment relied upon by counsel for the insurance company, Hon'ble the Supreme Court while relying upon decision of a three Judge Bench **UP State Road 2 Transport Corporation and ors. VS. Trilok Chandra and ors., (1996) 4 SCC 612** has held that ordinarily in the case of death of a bachelor, age of the dependent parents should be taken for determination of the multiplier. However, Hon'ble the Apex Court has not taken into consideration the enunciation laid down by the Apex Court in *Sarla Verma's, Reshma Kumari's* and *Munna Lal Jain's* case (supra). In view of the above, admissible multiplier, in the circumstances of the present case, would be 18. Accordingly, loss of dependency comes to **Rs.7,77,600.00** (4,800 x 12 x 18) 10,36,800 + 5,18,400 (50% thereof qua future prospects – 7,77,600 (50% for personal expenses). Under conventional heads, Rs.25,000.00 towards funeral expenses awarded by the Tribunal is affirmed. The claimants shall be entitled to an amount of Rs.50,000/- for loss of love and affection to mother and Rs.25,000.00 for loss of estate. The total compensation comes to Rs.8,77,600.00 (7,77,600 + 25,000 + 50,000 + 25,000) and the additional amount is **Rs.2,47,800.00** (8,77,600-6,29,800) which shall carry interest @ 7.5% per annum from the date of petition till realization, payable to mother of the deceased.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

14.09.2017
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No