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

FAO-1315 of 2017 (O&M)
Date of decision: 21.09.2017

United India Insurance Company Ltd. .... Appellant

Versus

Ramrati and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Shubham Jain, Advocate for
Mr.Suman Jain, Advocate
for the appellant.

Mr. Sanjeev Majra, Advocate
for respondents No.1 to 4.

Mr. Nourdeep Kalan, Advocate
for respondents No.5 and 6.

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Avneesh Jhingan, J.

The present appeal is filed against the award dated 07.09.2016 passed by Motor Accidents Claims Tribunal, Kaithal (hereinafter referred to as the 'Tribunal').

On 21.11.2015, Raja Ram met with an accident while he was going on his motorcycle bearing registration No.HR-08G-3993. He was struck by rashly and negligently driven car bearing registration No. HR-64-9072. As a result of accident, Raja Ram suffered serious injuries. He was taken to General Hospital, Kaithal from where he was referred to PGI, Chandigarh. On 06.12.2015 he succumbed to injuries sustained in the accident. FIR No.347 dated 29.11.2005 was registered at Police Station

Pundri.

The claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed by the widow and three major children of the deceased.

The Tribunal after considering the witnesses and evidence, awarded a sum of Rs.12,06,600/- along with interest @ 7.5% per annum.

Aggrieved of the said award, the present appeal has been filed by Insurance Company.

I have heard learned counsel for the parties and have perused the paperbook with their able assistance.

The only issue raised in the present appeal is that the age of the deceased and the multiplier to be applied.

Learned counsel for the appellant has argued that the Tribunal has erred in applying multiplier of 13 as the deceased was 60 years of age as per the treatment case summary ExP5. He argued that loss of dependency should be recalculated by applying the multiplier applicable to a 60 years old.

Learned counsel for the respondents/claimants argued that the deceased was 40 years of age as per the ration card in the year 2008 produced as Mark D.

The only issue to be decided is that what was the age of the deceased at the time of death. So far as the multiplier is concerned, the law is already settled by the Hon'ble Apex Court in ***Smt. Sarla Verma and others vs. Delhi Transport Corporation and another, (2009) 6 SCC 121,*** observed as under :-

> *"21. 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, Trilok Chandra and Charlie), 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."*

As per the decision of Hon'ble Apex Court, multiplier has been mentioned as per age.

In the claim petition, claimants claimed the deceased was 48 years. The claim was also supported by the copy of ration card produced as Mark 'A'. In the ration card, his age was shown as 40 years in the year 2008. The accident occurred in November, 2015. So, according to this, he should be aged about 48 years.

The post-mortem report Mark 'B' recorded the age of deceased as 52 years. In treatment summary the age was written as 60 years. At three places, three different age of the deceased has been mentioned. It would be appropriate that if the age in the post-mortem report is considered, the age mentioned in the postmortem report may not be a exact age but it would be safe to accept it. Therefore, the age of the deceased at the time of his death is taken as 52 years and hence the multiplier of 11 is to be applied. Even otherwise, as per the Hon'ble Apex Court in ***Sarla Verma's case (supra)***, a multiplier of 11 is to be applied for the age between 51 to 55.

The income and the deduction is taken as per the award of the Tribunal. The dependency of family as assessed by the Tribunal was Rs.82,300/-. Now instead of multiplier of 13, multiplier of 11 is applied as per the decision of the Hon'ble Apex Court. The loss of dependency compensation comes to Rs.9,15,200/-.

The award dated 07.09.2016 is modified to the extent that the amount awarded by the Tribunal of Rs.12,06,600/- awarded is reduced to Rs.10,40,200/- .

The appeal is partly allowed.

This Court vide order dated 08.03.2017, stayed the disbursement of the amount beyond Rs.9 lakhs, the balance amount be disbursed to the appellants with interest.

(AVNEESH JHINGAN)
JUDGE

21.09.2017
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Note:
1.Whether the order is speaking/reasoned: Yes

2.Whether the order is reportable : Yes