IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No. 5433 of 2017
Date of decision : October 04, 2017

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Reliance General Insurance Co. Ltd.
............Petitioner

Versus

Jagdish and others
...........Respondents

* * * * *

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Sanjeev Kodan, Advocate for the appellant.

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RITU BAHRI, J.

Appellant-Reliance General Insurance Company Limited has come up in the present appeal against the award dated 07.07.2017 passed by the Motor Accident Claims Tribunal, Rewari in a claim petition bearing **`MACP No. 522 of 2016'** titled, `Jagdish and others vs. Ram Chandra Gurjar and another' filed under Section 166 of the Motor Vehicles Act, 1988, whereby compensation of Rs.17,70,000/- was awarded to the claimants on account of death of their daughter in an accident which occurred on 11.6.2016.

Brief facts of the case are that Ritu, since deceased was studying in M.Sc Final year at NIMS College, Jaipur. On 11.6.2016, at about 12:00 `o' noon, she was going to her home from college on her

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scooty. The offending vehicle being driven by Ram Chandra Gurjar-respondent no.5 (respodnent no.1 in the claim petition) hit the scooty of the deceased from back side. Due to this violent impact, deceased sustained serious injuries and died during the treatment. The accident was reported to the police vide First Information Report No. 209 dated 11.6.2016 for the offence committed under Sections 279 and 304-A of Indian Penal Code and Sections 134 and 187 of Motor Vehicles Act, 1988 against Ram Chandra Gurjar.

Parents and siblings of the deceased filed claim petition before the Motor Accidents Claims Tribunal, Rewari (hereinafter referred to as `the Tribunal') seeking compensation on account of death of the deceased.

Upon notice, respondents appeared through their respective counsel and resisted the claim petition by filing separate written statements. From the pleadings of the parties, following issues were framed on 11.1.2017:-

1. *Whether Ritu died in a vehicular accident that took place due to rash and negligent driving of offending vehicle bearing registration no. RJ-32 GB-1466 by respondent no.1 as alleged in the petition? OPP*
2. *If issue no.1 is proved, whether the petitioners are entitled to compensation? If so to what amount? OPP*
3. *Whether respondent no.1 was not holding a valid and effective driving licence on the date of accident? If so its effect? OPR*
4. *Relief.*

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In view of the evidence led by the claimants and the fact that Ram Chandra Gurjar was facing trial for causing death of the deceased by his rash and negligent driving, it was observed by the Tribunal that the accident in question took place due to rash and negligent driving of respondent no.1. From the postmortem report also, it stood established that the deceased died as a result of the injuries suffered by her in the accident. Thus, Tribunal gave findings on issue no.1 in favour of the claimants.

The deceased was a 23 years old Science Graduate and was doing post graduation. Her notional income was assumed to the tune of Rs.10,000/- per month by the Tribunal. In view of the judgment of Hon'ble the Supreme Court in ***Smt. Rajesh and others vs. Rajbir Singh and others 2013 (3) RCR Civil 170***, 50 % of the notional income was added on account of loss of future income prospects, thus total income of the deceased was taken as Rs.15,000/- per month.

Detailed break up of compensation awarded by the Tribunal to the claimants is as under:-

Sr. No.	***HEADS***	***CALCULATION***
(I)	Income	Rs.10,000/- per month
(ii)	50% of (i) to be added as future prospects	Rs.10000/-+Rs.5000/- =Rs.15000/- per month
(ii)	1/2 of (ii) to be deducted as personal expenses of the deceased	(Rs15000/-)-(Rs.7500/-) =Rs.7500/- per month
(iii)	Compensation after multiplier of 18 is applied	(Rs.7500 x12x 18) =Rs.16,20,000/-
(iv)	Loss of estate to the parents of the deceased	Rs.25,000/-
(vi)	Loss of love and affection to claimants	Rs. 1,00,000/-
(vii)	Funeral expenses and transportation	Rs.25,000/-
	TOTAL COMPENSATION AWARDED	**Rs.17,70,000/-**

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Aggrieved with the judgment of the Tribunal, whereby, an amount of Rs.17,70,000/- was awarded to the claimants, the Insurance Company filed the present appeal.

Heard counsel for the parties. The deceased was 23 years old and was doing M.Sc final year from NIMS College. Her notional income has been taken as Rs.10,000/- per month. Keeping in view that as per her M.Sc Chemistry III Semester Examination, December, 2015 certificate Ex. P-20, she had got distinction in her studies by obtaining 76% marks, the notional income has been rightly assessed and requires no interference of this Court.

The multiplier has been taken as 18 keeping in view the age of the deceased. On this point, counsel for the Insurance Company says that the multiplier should have been taken keeping in view the age of the parents. In ***Reshma Kumari and others vs. Madan Mohan and another 2013 (9) SCC 65***, Hon'ble the Supreme Court has laid down guidelines for selecting the multiplier with respect to death in a motor vehicle accident in paragraph 40 , the guidelines are reproduced here as under:

> *(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*

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*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.

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In paragraph 33, in **Reshma Kumari's** case (supra), Hon'ble the Supreme Court has observed 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*

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> *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.***

Hence, the multiplier as depicted in ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77,*** has to be applied uniformly by all the Tribunals and thus the age of the deceased would be the criteria for determining the compensation. Hon'ble the Supreme Court, thereafter in the case of ***Munna Lal Jain and another vs. Vipin Kumar Sharma and others, 2015(3) Recent Apex Judgments 459*** has again reiterated that the age of the deceased and not the age of the dependents has to be made the basis for calculation of

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the compensation. Thus, while calculating the compensation payable to the claimants, the multiplier was rightly taken by the Tribunal as per the age of the deceased.

In view of all that has been discussed above and relying upon all the aforementioned judgments, this Court is of the view that the guidelines laid down by Hon'ble the Supreme Court for calculating the compensation payable to the claimants on account of death caused in a motor vehicular accident have been rightly followed by the Tribunal. There is no infirmity or illegality in the award passed by the Tribunal which requires interference of this Court.

Hence, the appeal filed by the appellant-Insurance Company is hereby dismissed.

October 04, 2017 **(RITU BAHRI)**
ritu **JUDGE**

Whether speaking/reasoned Yes

Whether reportable No

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