

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: March 10, 2017

+ **MAC. APP.376/2009 & C.Ms.10826-27/2009**

UNITED INDIA INSURANCE CO. LTD. Appellant

Through: Mr. L.K. Tyagi, Advocate

versus

SUSHILA RANI KATYAL & ORS. Respondents

Through: Mr. Amit Sharma, Advocate for
respondents No.1 & 2

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

%

Appellant is the Insurer of bus No. DL-1PB-3911, which was involved in a road accident on 24th August, 2006. Vide impugned Award of 15th April, 2009, Motor Accident Claims Tribunal (*hereinafter referred to as Tribunal*) has granted compensation of ₹6,01,440/- with interest @7.5% *per annum* to respondents-claimants on account of death of *Ms.Mayanka Katyal @ Mansi*, who was fatally injured in this accident and had eventually died.

Vide impugned Award, learned Tribunal has assessed the '*loss of dependency*' at ₹5,41,440/- by applying the multiplier of 16 and has

granted compensation of ₹50,000/- under the head of '*loss of love and affection*' and ₹10,000/- as '*funeral expenses*'. The facts of this case are already noted in impugned Award and so, need no reproduction. Suffice to note that deceased was a student aged 18 years and while relying upon the evidence of Claimants and eye-witness, impugned Award has been rendered.

While entertaining this appeal, appellant was directed to deposit a sum of ₹5 lacs with the Registrar General of this Court and it was so done. Vide order of 23rd November, 2009, a direction was issued to release a sum of ₹1 lac to respondents-Claimants and remaining ₹4 lacs was directed to be kept in Fixed Deposit Receipts with UCO Bank, Delhi High Court Branch, New Delhi. It is evident from the order of 23rd November, 2009 that service in this appeal is complete.

The challenge to impugned Award by learned counsel for appellant-Insurer is on the ground that multiplier of 16 has been erroneously adopted and the applicable multiplier as per Supreme Court's decision in *Sarla Verma (Smt.) and Others v. Delhi Transport Corporation and Another* (2009) 6 SCC 121 is of 15 as deceased was an unmarried girl aged 18 years.

It is next submitted by appellant's counsel that learned Tribunal has erred in granting compensation under the head of '*future prospects*' by applying the factor of 1.5 and has arrived at a figure of ₹5,640/- which ought not to be granted as the notional income of deceased has been taken on minimum wages. Thus, it is submitted that the quantum of compensation granted needs to be suitably reduced.

On the contrary, learned counsel for respondents-Claimants supports impugned Award and submits that deceased was a student, who was having bright future and so, '*future prospects*' have been rightly taken into consideration and thus, impugned Award deserves to be maintained. Nothing else is urged on behalf of either side.

Upon hearing and on perusal of impugned Award, evidence on record and the decision cited, I find that applicable multiplier as per Supreme Court's decision in *Sarla Verma (supra)* is of 15 and learned Tribunal has erred in applying the multiplier of 16. In view of Three Judge Bench decision of Supreme Court in *Reshma Kumari & Ors. v. Madan Mohan & Anr.* (2013) 9 SCC 65, addition towards '*future prospects*' is to be made where the deceased is in permanent kind of employment. Since deceased was a student of B.Com. (Pass) in School of Open Learning, therefore, any addition made towards '*future prospects*' is unjustified. Supreme Court in a recent pronouncement in *Sandeep Khanuja V. Atul Dande* 2017 SCC Online SC 88 has reiterated that application of multiplier takes care of future prospects, advancement in life and cost of living etc..

While taking the notional income of deceased to be ₹3,760/- as per applicable minimum wages then and by adopting the multiplier of 15 and after deducting 50% towards '*personal expenses*', the '*loss of dependency*' is reassessed as ₹3,760/- X 12 X 50% X 15 = ₹3,38,400/-. Thus, the quantum of compensation granted under the head of '*loss of dependency*' is reduced from ₹5,41,440/- to ₹3,38,400/-.

This Court finds that the compensation granted by learned Tribunal

under the non-pecuniary heads is on lower side. Accordingly, compensation granted under the head of '*loss of love and affection*' is enhanced from ₹50,000/- to ₹1 lac and '*funeral expenses*' are increased from ₹10,000/- to ₹25,000/-. In light of Supreme Court's decision in *Sandhya Rani Debbarma & Ors. v. The National Insurance Company Ltd. & Anr.*, 2016 SCC Online SC 945, compensation of ₹1lac is granted to respondents-Claimants under the head of '*loss of estate*'.

The reassessed compensation payable to respondents-Claimants is as under: -

<i>Loss of dependency</i>	₹3,38,400/-
<i>Loss of love and affection</i>	₹1,00,000/-
<i>Loss of estate</i>	₹1,00,000/-
<i>Funeral expenses</i>	₹25,000/-
<i>Total compensation</i>	₹5,63,400/-

In the light of aforesaid, this appeal succeeds to the extent of reducing the quantum of compensation from ₹6,01,440/- to ₹5,63,400/-.

In the light of a recent decision of Supreme Court in *Shivakumar M. v. The Managing Director, BMTC*, 2017 SCC Online SC 148, the reassessed compensation shall carry interest @ 9% *per annum* from the date of filing of the claim petition till the date of deposit of the enhanced amount. Respondent-Insurer is granted four weeks time to deposit the balance amount and differential interest on the reassessed compensation with learned Tribunal, who shall ensure that it is directly transmitted into the bank account of respondents-Claimants, upon their furnishing bank account details.

Statutory deposit, if any, made by appellant-Insurer be refunded as per Rules.

This appeal and the applications are disposed of while modifying the impugned Award in aforesaid terms.

(SUNIL GAUR)
JUDGE

MARCH 10, 2017

S

