* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: February 22, 2017

\+ MAC.APP. 549/2008

INDERJEET SHARMA & ANR. ..... Appellants

Through: Mr. K.K. Tiwari & Mr. Lakhi Singh, Advocates

Versus

JITENDRA PAL & ORS. ..... Respondents

Through: Ms. Nupur Singhal, respondent No.2

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

% **ORAL**

1. Impugned Award of 15th November, 2007 grants compensation of ₹3,47,500/- with interest @7% p.a. to the appellant on account of death of one *Yogesh Sharma* in a road accident on 26th July, 1997. The facts of this case are already noted in impugned Award and so, needs no reproduction. Suffice to note that enhancement of compensation in this appeal is sought on the ground that deceased, aged 21 years, was a bachelor and aspect of his future earnings has not been considered and that deduction of 50% towards personal expenses is on the higher side. On the basis of evidence led, impugned Award has been rendered.

2. Learned counsel for appellants submits that while assessing the income of deceased, learned Tribunal has not taken into consideration the Salary Certificate of deceased which is on record and that inappropriate multiplier has been applied while taking into consideration the age of Claimants, whereas Supreme Court in *Munna Lal Jain & anr. Vs. Vipin Kumar Sharma & ors.* (2015) 6 SCC 347 has reiterated that age of deceased has to be considered while adopting the multiplier. It is submitted by appellants' counsel that applicable multiplier is of 18 and after deducting 1/3rd towards personal expenses, the compensation awarded needs to be suitable enhanced.

3. On the contrary, learned counsel for respondent-owner submits that in the impugned Award, minimum wages have been rightly applied by the Tribunal, as Salary Certificate of deceased has not been proved in evidence. Counsel for respondent-owner submits that question of inappropriate application of multiplier has not been raised in the appeal and that Supreme Court in *Munna Lal (Supra)* has clarified that in a case of bachelor, deduction towards personal expenses has to be 50%. Attention of this Court is drawn to a recent pronouncement of Supreme Court in *Sandeep Khanuja v. Atul Dande,* 2017 SCC Online SC 88 to submit that application of multiplier takes care of future prospects, advancement in life and cost of living etc. and so, compensation awarded is just and reasonable and no case for its enhancement is made out.

4. Upon hearing and on perusal of impugned Award, evidence on

record and the decisions cited, I find that learned Tribunal has chosen not to rely upon Salary Certificate of deceased indicating that at the relevant time the deceased was earning ₹3,500/- per month and has rather proceeded to assess loss of income on the basis of minimum wages. Pertinently, there is hardly any variation between applicable minimum wages of ₹3,470/- p.m. and ₹3,500/- p.m., as claimed in the claim petition. Judicial notice can be taken note of the fact that in the year 2007, a Marketing Executive in a private sector would have earned ₹3,500/- p.m. and so, income of deceased is taken to be ₹3,500/- p.m. Such a view is being taken, as Claimant- *Inderjeet Sharma* has proved Salary Certificate of deceased in his evidence and the said Salary Certificate remains unchallenged in cross-examination. So, income of deceased is taken to be ₹3,500/- p.m.

5. Supreme Court in *Munna Lal (Supra)*, has reiterated that in case of in a case of a bachelor, deduction towards personal expenses ought to be 50% and so, deduction of 50% towards personal expenses by the Tribunal is justified. Regarding assessment of loss of dependency, application of appropriate multiplier takes care of future income, cost of living etc. On the above aspect, Supreme Court in *Sandeep Khanuja (Supra)* has reiterated as under:-

> *"**12.** While applying the multiplier method, future prospects on advancement in life and career are taken into consideration. In a proceeding under Section 166 of the Act relating to death of*

the victim, multiplier method is applied after taking into consideration the loss of income to the family of the deceased that resulted due to the said demise. Thus, the multiplier method involves the ascertainment of the loss of dependency or the multiplicand having regard to the circumstances of the case and capitalising the multiplicand by an appropriate multiplier. The choice of the multiplier is determined by the age of the deceased or that of the Claimant, as the case may be. In injury cases, the description of the nature of injury and the permanent disablement are the relevant factors and it has to be seen as to what would be the impact of such injury/disablement on the earning capacity of the injured. This Court, in the case of U.P State Road Transport Corporation v. Trilok Chandra justified the application of multiplier method in the following manner:

> *"13. It was rightly clarified that there should be no departure from the multiplier method on the ground that Section 110-B, Motor Vehicles Act, 1939 (corresponding to the present provision of Section 168, Motor Vehicles Act, 1988) envisaged payment of 'just' compensation since the multiplier method is the accepted method for determining and ensuring payment of just compensation and is expected to bring uniformity and certainty of the awards made all over the country."*

6. Since Supreme Court in *Munna Lal (supra)* has reiterated that multiplier adopted has to be in relation to the age of deceased and not the age of Claimant, the applicable multiplier in the instant case ought to be of 18. Accordingly, the compensation which is payable to appellants-Claimants is reassessed as under:-

₹3,500 X 12 X 18 = ₹7,56,000/-X 1/2 = ₹3,78,000/-

7. Under the non-pecuniary heads, the compensation granted is apparently on the lower side as Supreme Court in *Rajesh and Others v. Rajbir Singh and Others,* (2013) 9 SCC 54 has granted compensation of ₹1,00,000/- under the head *"loss of love and affection"* and ₹25,000/- has been awarded under the head *"funeral expenses"*. So, the compensation awarded under the head *"loss of love and affection"* is enhanced from ₹35,000/- to ₹1,00,000/- and *"funeral expenses"* are enhanced from ₹5,000/- to ₹25,000/-. Thus, the enhanced compensation awarded to appellants-Claimants is as under:-

1.	*Loss of dependency*	*₹3,78,000/-*
2.	*Loss of love and affection*	*₹1,00,000/-*
3.	*Funeral expenses*	*₹25,000/-*
	Total	***₹5,03,000/-***

8. In light of the aforesaid, the compensation awarded is enhanced from ₹3,47,500/- to ₹5,03,000/- only. In view of Supreme Court's recent pronouncement in *Kalpanaraj & ors. Vs. Tamil Nadu State Transport*

Corporation (2015) 2 SCC 764, the enhanced compensation would carry interest @ 9% p.a. from the date of filing of the claim petition till the date of deposit of the enhanced amount. Respondent-Insurer is granted eight weeks time to deposit the enhanced compensation of ₹1,55,500/- with 9% interest and differential interest on the entire awarded amount with the learned Tribunal, who shall ensure that the enhanced compensation is directly remitted into the bank accounts of appellants-Claimants upon their furnishing bank details.

9. This appeal is disposed of while modifying the impugned Award in aforesaid terms.

(SUNIL GAUR)
JUDGE

FEBRUARY 22, 2017
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