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

Date of decision: 20.07.2023

+ **MAC.APP. 229/2021**

SHEEBA @ SHIVA

..... Appellant

Through: Mr.Manish Maini, Ms.Yashika Miglani, Mr.Vibhor Jain, Advs.

versus

TATA AIG GEN. INS. CO. LTD. ORS Respondents

Through: Ms.Vandana Kahlon, Mr.Rudra Kahlon, Advs. for R-1.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

1. This appeal has been filed by the appellant, who was the claimant, challenging the Impugned Award dated 26.02.2021 passed by the learned Motor Accidents Claims Tribunal, East District, Karkardooma Courts, Delhi (hereinafter referred to as the 'Tribunal') in MACT No.516/2016, to a limited extent that while awarding loss of income to the appellant, the learned Tribunal has taken the minimum wages that were applicable to the State of Uttar Pradesh (hereinafter referred to as 'UP') instead of what was applicable to the State of NCT of Delhi. The appellant further challenges the multiplier of 17 adopted by the learned Tribunal

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instead of 18, though it was proved on record that the appellant was only 25 years and 8 months old.

2. As far as the minimum wages are concerned, the learned counsel for the appellant submits that the Aadhaar card, which was produced before the learned Tribunal, showed that the appellant was a resident of Delhi. In fact, in the Memo of Parties also, the appellant's residential address was given as that of Delhi.
3. On the other hand, the learned counsel for the respondent no.1 submits that the accident in question had occurred on the road in front of TGIP Mall, Sector 39, Noida (UP). The FIR of the accident records that at the time of the accident, the appellant was collecting dead animals at the said spot. He submits that therefore, it was clearly evident that the appellant used to work for gain at Noida, UP, and the learned Tribunal has, therefore, rightly relied upon the notification of minimum wages as applicable in the State of UP for award of compensation.
4. As far as the Aadhaar Card is concerned, the learned counsel for the respondent no.1, placing reliance on Section 9 of The Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (hereinafter referred to as the "Aadhaar Act") and the judgments in *Re Rani Mistri*, 2016 SCC OnLine Cal 8283, submits that the Aadhaar Card by itself cannot be considered as a proof of residence. He submits that, therefore, on the one hand, it was proved on record that the appellant was working for gain in the State of UP, while on the other hand, there was no evidence on



record that he was a resident of Delhi. The learned Tribunal has rightly considered the notification of minimum wages as applicable in the State of UP for award of compensation.

5. I have considered the submissions made by the learned counsels for the parties.
6. Apart from stating his address at Delhi in the Memo of Parties and producing the Aadhaar card, admittedly the appellant did not lead any other evidence before the learned Tribunal to show that he was a resident of Delhi or was working for gain at Delhi. On the other hand, it was the own case of the appellant that the accident occurred at Noida, UP, when he was collecting the dead animals and thereby working for gain at the spot. No fault, therefore, can be found in the learned Tribunal adopting the minimum wages as applicable to the State of UP.
7. Section 9 of the Aadhaar Act reads as under:

“9. Aadhaar number not evidence of citizenship or domicile, etc. – The Aadhaar number or the authentication thereof shall not, by itself, confer any right of, or be proof of, citizenship or domicile in respect of an Aadhaar number holder.”

8. A reading of the above provision would show that the Aadhaar by itself cannot be read as a proof of domicile of the Aadhaar holder. The submission of the appellant on the first challenge to the Impugned Award, therefore, cannot be accepted.
9. On the second issue, it is not disputed before this Court that the appellant was aged around 25 years and 8 months on the date of the



accident.

10. In ***Shashikala and Ors. v. Gangalakshamma and Anr.***, 2015 ACJ 1239, relied upon by the learned counsel for the appellant, it has been held as under:

“17. Insofar as appropriate multiplier, the date of birth of the deceased as per driving licence was 16.6.1961. On the date of accident, i.e., 14.12.2006, the deceased was aged 45 years, 5 months and 28 days and the Tribunal has taken the age as 46 years. Since the deceased has completed only 45 years, the High Court has rightly taken the age of the deceased as 45 years and adopted multiplier of 14 which is the appropriate multiplier and the same is maintained. The total loss of dependency is calculated at Rs.16,82,310 (Rs.1,20,165 x 14).”

11. In ***Navin Parcha & Ors. v. Deepak Kumar & Ors.***, Neutral Citation No-2019:DHC:4441, this Court has also held that where the deceased had not attained the age of 31 years, which is a next slab, the multiplier applicable to the previous slab would be applied.
12. Though in ***Bajaj Allianz General Insurance Co. Ltd. v. Meenakshi & Ors.***, Neutral Citation No-2012:DHC:3735, relied upon by the learned counsel for the respondent no.1, it has been held that to apply the judgment of ***Sarla Dixit v. Balwant Yadav*** (1996) 3 SCC 179, purposely, the multiplier has to be taken as per the age which is nearer to the birth on the date of the accident, in view of the subsequent judgment in ***Shashikala*** (supra), I am bound by the judgment of the Supreme Court.
13. Taking into account, the multiplier as prescribed in ***Sarla Dixit*** (supra), and taking the age of the appellant as 25 years for purposes



of the multiplier slab stipulated therein, it is held that the multiplier to be adopted was 18, which is applicable to the age group of 21-25, and the learned Tribunal has erred in adopting the multiplier of 17 for determining compensation. The Impugned Award is modified to the above limited extent.

14. In view of the above, the enhanced compensation payable to the appellant on the head of loss of future income on account of permanent disability suffered, is as under:

Calculation of Enhanced Amount

<i>Loss of Earning Capacity</i> (6735+40%) x 12x18x9%	<i>Rs. 1,83,299/-</i>
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<i>Less: the amount awarded by</i> <i>The Tribunal</i>	<i>Rs. 1,73,116/-</i>
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<i>Enhanced Compensation</i>	<u><i>Rs.10,183/-</i></u>
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15. The enhanced amount along with interest due thereon in terms of the Impugned Award shall be deposited by the respondent no.1 with the learned Tribunal within eight weeks, and shall be released in favour of the appellant in accordance with the schedule prescribed in the Impugned Award.
16. The appeal is disposed of in the above terms.

NAVIN CHAWLA, J

JULY 20, 2023
RN/rp