



2025:DHC:1068



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 19th February, 2025*+ **MAC.APP. 151/2023**

THE ORIENTAL INSURANCE CO LTDAppellant

Through: Mr. A.K. Soni &
Mr. Pavan Kumar, Advs.

versus

SMT SAPNA & ORS.Respondents

Through: Mr. S.N. Parashar, Adv.
for R1 to R4**CORAM:****HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (Oral)**

1. The present appeal is filed challenging the award dated 06.01.2023 (hereafter '**the impugned order**') passed by the learned Presiding Officer, Motor Accidents Claim Tribunal, Rohini Courts, Delhi in MACT No. 808/2018.

2. The Insurance Company/appellant challenges the impugned award mainly on twofold grounds; firstly, the father of the deceased should not have been considered as dependent and secondly, the learned Tribunal erred in considering the income of the deceased as ₹16,858/- per month as per minimum wages of skilled labour though the claimants were not able to prove the income of the deceased. The learned counsel for the appellant submits that the income ought to have been determined on the basis of the minimum wages for unskilled labour.

Signature Not Verified3. In regard to the ground that the father of the deceased

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Signing Date: 25.02.2025 **MAC.APP. 151/2023**

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should not have been considered as dependent, the learned counsel for the appellant relies upon the judgment passed by the Hon'ble Apex Court in the case of ***Sarla Verma v. Delhi Transport Corporation & Anr.*** : (2009) 6 SCC 121. Heavy reliance is placed upon paras 31 and 32 which reads as under:

“31. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent(s) and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependant. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependants, because they will either be independent and earning, or married, or be dependent on the father.

32. Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third.”

4. In the opinion of this Court, the observations made by the Hon'ble Apex Court are not applicable to the facts of the present case. The reliance placed by the appellant on the said decision is misplaced, as the factual scenario in ***Sarla Verma v. Delhi Transport Corporation & Anr.*** (*supra*) is significantly different.

5. In ***Sarla Verma v. Delhi Transport Corporation & Anr.*** (*supra*), the Hon'ble Apex Court had considered the case where



the deceased was a bachelor and the claimants were his parents. The Hon'ble Apex Court noted that subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependent, and the mother alone will be considered as dependent.

6. However, in the present case, the deceased was not a bachelor. He was 29 years of age at the time of the accident and was survived by his wife, who is one of the claimants. The deceased's father was 63 years old at the time of the accident and, in the absence of evidence suggesting otherwise, he would be presumed to be retired and not engaged in any gainful employment. Unlike in *Sarla Verma v. Delhi Transport Corporation & Anr. (supra)*, the dependency of the deceased's father is not being assessed in the context of a bachelor's responsibility towards his parents, but rather in the context of a married son's financial contribution to his aging father.

7. The only relevant question put to PW-1 (the deceased's wife) during cross-examination was regarding the father's income, to which she responded that she was not aware of the amount earned by him. This statement by PW-1 cannot be construed as an admission that the father of the deceased was earning a livelihood. The mere absence of information regarding the father's income does not automatically lead to the conclusion that he was not financially dependent on the deceased, particularly when he was already 63 years of age.

8. Furthermore, *Sarla Verma v. Delhi Transport Corporation & Anr. (supra)* does not establish an absolute rule



that a father cannot be a dependent. The Hon'ble Apex Court merely stated that 'subject to evidence to the contrary,' the father is presumed to be independent. This means that each case must be decided based on the specific facts and circumstances presented before the court. In the present case, there is no evidence to establish that the deceased's father had an independent source of income, nor is there any evidence to suggest that he was not financially reliant on the deceased.

9. Even assuming, for the sake of argument, that the Tribunal erred in considering the father as a dependent at the time of the accident, it would still be inequitable and contrary to the principles of social justice to deny compensation to an aged parent who would inevitably become dependent on his child in the later stages of his life. It is a well-established principle that financial dependence is not static—it evolves with time. While a parent may not be financially reliant on their child at a given moment, it is reasonable to expect that, as they age, they will increasingly depend on their children, both financially and emotionally, just as children are dependent on their parents in their formative years. In ***Indrawati v. Ranbir Singh : 2021 SCC OnLine Del 114***, this Court held as under :

“12. This Court is of the view that the parents of the deceased are considered in law as dependent on their children, considering that the children are bound to support their parents in their old age, when the parents would be unable to maintain themselves and the law imposes a responsibility on the children to maintain their parents. Even if the parents are not dependent on their children at the time of the accident, they will certainly be dependent, both financially and emotionally, upon their children at the later stage of their life, as the children were dependent upon their parents in their initial years. It



would therefore be unfair as well as inequitable to deny compensation for loss of dependency to a parent, who may not be dependent on his/her child at the time of accident per se but would become dependent at his/her later age.”

(emphasis supplied)

10. Therefore, when assessing dependency in motor accident claims, the standard of proof required is not beyond reasonable doubt, as in criminal cases, but rather on the touchstone of the preponderance of probabilities. This means that the claimants are only required to establish that it is more likely than not that they were financially dependent on the deceased.

11. In the present case, given the father's age of 63 years, it is reasonable to infer that he would have been largely financially dependent on the deceased. At this stage of life, individuals are generally either retired or nearing the end of their professional careers, often with limited or no independent income. In the absence of any concrete evidence establishing that the father of the deceased had a substantial source of income, the presumption of dependency holds valid.

12. Compensation should, therefore, be awarded keeping in mind the broader perspective of familial responsibility and social security. The dependency of a parent should not be viewed in isolation at the moment of the accident but rather in the context of long-term financial security and support. Therefore, it would be unjust and contrary to social realities to deny dependency status merely due to a lack of explicit proof of the father's financial incapacity.

13. In view of the foregoing, the learned Tribunal was justified in considering the father of the deceased as a dependent. The



compensation awarded for loss of dependency, therefore, does not warrant interference.

14. In regard to the learned Tribunal notionally assessing the income of the deceased to be of a skilled worker, learned counsel for the appellant submits that the same has been decided only on the basis of I-Card which was produced by the wife of the deceased.

15. The learned counsel submits that the learned Tribunal categorically held that the claimant had not been able to show that the deceased was working or was earning the salary of ₹20,000/- per month as claimed.

16. Undisputedly, without any evidence being produced, the only bald claim of the family of the victim that he was earning ₹20,000/- per month cannot be presumed and no compensation could have been granted in that regard. However, it is also undisputed that the I-Card, in fact, was produced and was also exhibited. The I-Card clearly indicates that the deceased was working as a plumber. No suggestion was put by the appellant/ Insurance Company at any stage that the said I-Card was a forged and fabricated document and, thus, should not have been relied upon.

17. The fact that the Motor Vehicles Act is a beneficial legislation cannot be lost sight of. The I-Card produced by the wife of the deceased categorically mentions the name of the employer. Therefore, the argument that the deceased was erroneously presumed to be skilled labour, in the absence of any proof, or the suggestion that the said I-Card was a fabricated



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document and was made only for the purpose of claiming compensation, cannot be accepted.

18. In such circumstances, the learned Tribunal taking the notional income of the deceased as that of skilled labour, is reasonable and cannot be interfered with.

19. In view of the above, I find no merit in the present appeal and the same is, therefore, dismissed.

20. The balance compensation amount is directed to be deposited within a period of four weeks.

21. The amount is directed to be released in favour of the claimant in the manner as provided in the impugned award.

22. The statutory amount deposited by the Insurance Company is directed to be refunded.

AMIT MAHAJAN, J

FEBRUARY 19, 2025

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