
(1993) 04 AHC CK 0030
In the Allahabad High Court
Case No : F.A.F.O. No. 302 of 1988

National Insurance Co. Ltd.	Vs	APPELLANT
Swarn Kanta Sahgal and Others		RESPONDENT

Date of Decision : 30-04-1993

Acts Referred:

Citation : (1994) ACJ 468 : (1993) AWC 1338

Hon'ble Judges : M.L. Bhat, J

Bench : Single Bench

Advocate : P.K. Mukherji, for the Appellant; S.K. Mehrotra, for the Respondent

Final Decision : Dismissed

Judgement

M.L. Bhat, J.—This is an appeal filed by the insurance company against the judgment and award of the court below exercising powers under the Motor Vehicles Act, dated 18.12.1987. By this judgment court below had granted compensation to the respondents in connection with the death of one Jang Bahadur Sahgal to the tune of Rs. 54,000/-along with interest at the rate of 10 per cent per annum from the date of filing of the petition, i.e., 10.4.1986 till the date of payment.

2. The deceased is said to have been retired army personnel and after his retirement he had sought a private employment in a club. On the fateful day, he was going on his scooter when the truck in question, owned by one Satpal Singh, which was being driven rashly and negligently, hit the scooter from the back side and the deceased is said to have died on the spot. The occurrence is said to have been witnessed by some passers-by. The claimants had preferred a claim for compensation for Rs. 6,20,000/-but the Tribunal granted only Rs. 54,000/-. The deceased was held to be 56 years of age at the time of his death and Tribunal held that the deceased died due to rash and negligent driving of the driver. His income was said to be Rs. 500/- per month. Tribunal has also observed that the deceased must have been spending Rs. 200/- per month on his own self and he

must have been giving Rs. 300/- per month to his family. He in this manner was contributing towards his family Rs. 3,600/- per year. The claimants had failed to prove that deceased was getting any pension from the army. Since deceased was more than 30 years of age, multiplier of 15 years was applied to him and without any directions the claimants were held to be entitled to the amount determined by the court below. Since the truck in question was insured with the appellant, therefore, the appellant had to shoulder the responsibility of payment of compensation.

3. The learned counsel for the appellant has submitted that deceased was found to be 56 years of age. Tribunal was, therefore, not correct in applying the principle of 15 years' multiplier. Multiplier of 7 or 8 years was applicable and the amount of compensation was, therefore, excessive.

4. The learned counsel for the appellant has submitted that the compensation granted by the Tribunal was excessive as the incorrect multiplier was applied. He has referred to some authorities which need to be commented upon.

In *Laxmidbar Mohanty and Another Vs. Bhann Dei and Others*, the Orissa High Court has enhanced the amount in a case of an injury which caused the permanent disability from Rs. 15,000/- to Rs. 38,000/-. In this case two appeals were decided together. In another appeal deceased was a sub-contractor who was earning between Rs. 700/- and Rs. 900/- per month. He was contributing about Rs. 3,500/- to the family every year. At the time of death he was about 35 years of age. Multiplier of 10 years was applied and his contribution towards his family was held to be Rs. 2,500/- only and on the basis of this about Rs. 21,000/- was awarded. In another authority *Mahipalpur Co-operative Society Ltd. etc. Vs. Prabhati and Others*, deceased was 40 years of age, drawing a salary of Rs. 800/- per month plus bonus, etc. Monthly dependency of the family was held to be Rs. 700/-. Multiplier of 20 years was adopted and compensation was granted by multiplying 20 years with his yearly dependency of Rs. 8,400/-. In *Lakshmamma and Others Vs. C. Das and Others*, deceased was 50 years old and earning Rs. 5/- or Rs. 61/- per day. Monthly dependency of the family was fixed at Rs. 80/- per month. Multiplier of 10 years was adopted. In *Krishna Kumari Gupta and Others Vs. Gurubux Singh and Others*, the deceased's age was 30 years and he was contributing Rs. 300/- per month to his family. The Tribunal had applied 100 months' multiplier and had calculated the compensation on that basis. The High Court held that 16 years' multiplier should have been adopted and the compensation was enhanced.

5. The learned counsel for the claimants has also relied on some authorities in support of his contention. In *Ram Kunwar Bai and Another Vs. Hari Sharma and Others*, deceased was a milk-vendor and 60 years old. His monthly income was Rs. 300/-. Dependency of the family of the deceased was determined at Rs. 150/- per month, longevity of the deceased was held to be 70 years but multiplier of 5 was applied. In the appeal multiplier was enhanced to 10 years. In *Neemabai Vs. Arun Kumar and Others*, deceased was of 58 years, whose

monthly income was said to be Rs. 400/-, dependency of the family of the deceased was Rs. 100/- per month. Tribunal had adopted 6 years" multiplier but in appeal 12 years" multiplier was applied.

6. I have heard the learned counsel on facts and law and gone through the record carefully. After giving consideration to the points involved, I am of the view that no hard and fast rule can be laid down for application of the multiplier and for determining the compensation. Application of multiplier is largely dependent on the life-span of the deceased or the family members of the deceased. Having regard to the uncertainties of life and surrounding circumstances and the probabilities, the life-span of the deceased in a given case has to be arrived at by making a reasonable assessment of all the circumstances. In making the assessment an element of speculation will also creep in because with certainty age of a deceased in a given case, for which he should have lived, could not be fixed. In the present case, it does not appear to be unlikely that the deceased would have lived for another 14 or 15 years and dependency of his family on the deceased has been cut short by the fatal accident by about 14/15 years. That would mean that deceased would have lived up to 70/71 years in all probability. Therefore, determining the compensation for the dependants by adopting 15 years" multiplier does not appear to be too excessive as to warrant its reduction. The Tribunal could adopt 12 years" multiplier also but it has chosen to apply 15 years" multiplier, by which the judgment of the Tribunal does not suffer from any error of law. If a person dies at the threshold of his career, his dependants would be deprived of his earning for larger number of years because he would have lived for a longer period, therefore, higher multiplier is warranted. This principle is reasonable and rational though nobody can foresee the uncertainties of life and probability of survival or death of the deceased with certainty, therefore, a reasonable speculation is permissible in such cases. If a person dies at an advanced age, the period for which he would have served his family would get reduced, therefore, multiplier for lesser period is to be applied.

Age of 56 years cannot be considered to be old age when the society has made tremendous advancement in the field of medical sciences and the age span of the people has been enlarged to a very great extent. Therefore, Tribunal does not seem to have committed any fundamental error in applying 15 years" multiplier in the present case. The Tribunal has thought average age span of the deceased at 70/71 years. This speculation with regard to the deceased"s age span does not appear to be unreasonable or erroneous. Had the pension of the deceased been settled by his employer then his income would have been on a higher side and even if multiplier of lesser years was applied, compensation would have run into lacs. The dependency of the family on the deceased has been reasonably determined, therefore, in these circumstances, I do not find that there is any error of law or fact so as to warrant interference with the judgment of the trial court.

7. For the reasons stated above, there is no force in this appeal. The appeal is

accordingly dismissed. However, there will be no order as to costs.