(2018) 04 RAJ CK 0088

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 1823 of 2018

Rajasthan State Road Transport Corporation @APPELLANT@Hash Smt. Manju & Ors.

Date of Decision : 09-04-2018

Acts Referred:

Citation : (2018) 04 RAJ CK 0088

Hon'ble Judges : SABINA, J

Bench : Single Bench

Advocate : Virendra Agarwal

Final Decision : Dismissed

Judgement

Appellant has filed this appeal, challenging the award dated 18.01.2018 passed by the Motor Accident Claim Tribunal, whereby, claim petition filed by

the claimants was allowed.

Learned counsel for the appellant has submitted that the amount of compensation granted by the Tribunal was on a higher side.

It has been held by the Honâ??ble Supreme Court in National Insurance Company Limited Versus Pranay Sethi and others AIR 2017 (SC) 4973 , as

under:-

â??39. Before we proceed to analyse the principle for addition of future prospects, we think it seemly to clear the maze which is vividly reflectible

from Sarla Verma, Reshma Kumari, Rajesh and Munna Lal Jain. Three aspects need to be clarified. The first one pertains to deduction towards

personal and living expenses. In paragraphs 30, 31 and 32, Sarla Verma lays down:-

â??30. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok

Chandra4, the general practice is to apply standardised deductions. Having considered several subsequent decisions of this 37 (2003) 3 SLR (R) 601

31 Court, we are of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be

one-third (1/3rd) where the number of dependent family members is 2 to 3, onefourth (1/4th) where the number of dependent family members is 4 to

6, and one-fifth (1/5th) where the number of dependent family members exceeds six.

31. Where the deceased was a bachelor andthe 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 byparents 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 nonearning sisters or brothers,

his personal and living expenses may be restricted to onethird and contribution to the family will be taken as two-third.â??

Â â??44. As far as the multiplier is concerned, the claims tribunal and the Courts shall be guided by Step 2 that finds place in paragraph 19 of Sarla

Verma read with paragraph 42 of the said judgment. For the sake of completeness, paragraph 42 is extracted below :-

â??42. We therefore hold that the multiplier to be used should be as mentioned in Column (4) of the table above (prepared by applying Susamma

Thomas, Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for

46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-

5 for 66 to 70 years.â??

â??59. Taking into consideration the cumulative factors, namely, passage of time, the changing society, escalation of price, the change in price index,

the human attitude to follow a particular pattern of life, etc., an addition of 40% of the established income of the deceased towards future prospects

and where the deceased was below 40 years an addition of 25% where the deceased was between the age of 40 to 50 years would be reasonable.

â??61. In view of the aforesaid analysis, we proceed to record our conclusions:-

(i) The two-Judge Bench in Santosh Devishould have been well advised to refer the matter to a larger Bench as it was taking a different view than

what has been stated in Sarla Verma, a judgment by a coordinate Bench. It is because a coordinate Bench of the same strength cannot take a

contrary view than what has been held by another coordinate Bench.

(ii) As Rajesh has not taken note of thedecision in Reshma Kumari, which was delivered at earlier point of time, the decision in Rajesh is not a binding

precedent.

(iii) While determining the income, an additionof 50% of actual salary to the income of the deceased towards future prospects, where the deceased

had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was 48 between 40

to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary

less tax.

(iv) In case the deceased was self-employedor on a fixed salary, an addition of 40% of the established income should be the warrant where the

deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the

deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the

income minus the tax component.

(v) For determination of the multiplicand, thededuction for personal and living expenses, the tribunals and the courts shall be guided by paragraphs 30

to 32 of Sarla Verma which we have reproduced hereinbefore.

(vi) The selection of multiplier shall be asindicated in the Table in Sarla Verma read with paragraph 42 of that judgment.

(vii) The age of the deceased should be thebasis for applying the multiplier.

(viii) Reasonable figures on conventionalheads, namely, loss of estate, loss of consortium and funeral expenses should be Rs. 15,000/-, Rs. 40,000/-

and Rs. 15,000/respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years.â??

Claimants had filed claim petition seeking compensation on account of death of Kaptan @ Satish in the motor vehicle accident, which had occurred on

27.12.2015. Tribunal has assessed the income of the deceased as Rs. 5,000/- per month. At the relevant time, a daily wager was expected to earn Rs.

5,122/- per month as per the minimum wages fixed by the State. As per the postmortem report, age of the deceased was 28 years at the time of

accident. Hence, the Tribunal has rightly applied the multiplier of 17 to workout the dependency of the claimants. Keeping in view the number of

claimants, Tribunal has rightly deducted 1/3rd of the income of the deceased towards his personal expenses, and thereafter, calculated the

compensation amount. Tribunal has not granted compensation to the claimants towards the future prospects of the deceased. Claimants are the widow

and children of the deceased.

In the facts and circumstances of the present case, no ground for interference by this Court in the present appeal is made out.

Dismissed.

