

(1984) 09 AHC CK 0058
In the Allahabad High Court
Case No : F.A.F.O. No. 333 of 1977

Smt. Krishna Kumari Gupta and Others	APPELLANT
Vs	
Gur Buxeesh Singh and Others	RESPONDENT

Date of Decision : 20-09-1984

Acts Referred:

Motor Vehicles Act, 1939 — Section 110B

Citation : AIR 1985 All 85

Hon'ble Judges : R.K. Shukla, J;A. Banerji, J

Bench : Division Bench

Advocate : Shyam Narain, for the Appellant; J.N. Chatterji and Prakash Gupta, for the Respondent

Final Decision : Allowed

Judgement

A. Banerji, J.—This is an appeal by the claimants. The Motor Accidents Claims Tribunal, Dehradun, allowed the petition of the claimants u/s 110-A of the Motor Vehicles Act, 1939, partly and awarded a sum of Rs. 30,000/- as compensate. The claimants had valued their claim petition at Rs. 1,00,000/- They have now prayed for a further sum of Rs. 70,000/- in this appeal.

2. Sri Vinod Kumar Gupta, an employee in Controller of Defence Accounts office, was going to his office on the 24th April, 1975. He was on Rajpur Road at about 1.45 P.M. when a Car No, PMT 4886 coming from the opposite side knocked him down. He died on the spot. The claimants are Smt Krishna Kumari, mother of the deceased, Smt Meena Rani Gupta, widow of the deceased and Km Bittoo aged about 41/2 years (in 1977) a daughter of the deceased.

3. There are four respondents viz, Gur Baxeesh Singh, Sardarni Kripal Kaur, who were arrayed as the owners, Har Charan Singh, the driver of the Car and National Insurance Co. as the Insurer. Although they filed separate written statements, their version of the accident was the same. According to them the Car was coming down but the road side had been dug for laying pipe line and

there was a crowd of people on the road and meanwhile a cow came in front of the Car which the driver tried to avoid with the result that the autocycle which was being driven by Sri Vinod Kumar Gupta struck against the Car and the accident was caused According to them the deceased was driving the autocycle rashly. The Car was registered in the name of Sardarni Kirpal Kaur, but it was pleaded that she had sold it to her father Gur Baxeesh Singh. The latter has also taken the plea that the Car was driven by the driver against his instructions and as such he was not liable for the accident caused by the driver.

4. The Tribunal held that the Car was being driven rashly and negligently by the driver Har Charan Singh and this was the cause of the accident It was also held that the driving of Har Charan Singh was within the course of his employment and it was not proved that he was driving the Car against the instructions of the owner. The Tribunal held that both Gur Baxeesh Singh and Sardarni Kirpal Kaur would be treated as owners of the vehicle for the purposes of the case. Under Issue No. 4 viz, what is the damage caused to the claimants by the accident?" the Tribunal, held that the damage caused to the claimants by the accident amounted to Rs. 30,000/-. The Tribunal therefore awarded a sum of Rs. 30,000/- collectively to the claimants with future interest at 6 per cent per annum against all the respondents jointly and severally. Parties were, however, directed to bear their own costs.

5. In this appeal notices were sent to all the four respondents. Notice was duly served on the owner Gur Baxeesh Singh and Insurance Company. Notices sent by registered post to the driver Har Charan Singh and to the other owner Sardarni Kripal Kaur were deemed to be served under chapter VIII Rule 4 of the Rules of the Court, as neither undelivered covers nor acknowledgment due cards were received back. It will, therefore, be deemed that all the four respondents have been duly served Respondent No. 3 is represented by Shri Prakash Gupta and Shri J. N. Chatterji

6. We have heard Mr. Shyam Narain, learned counsel for the appellants and Mr. Prakash Gupta, learned counsel for the Insurance Company, respondent No. 3. Mr. Shyam Narain contended that the amount awarded as compensation to the claimants appellants was much too low and the Tribunal has not applied any of the recognised principles for arriving at the sum of Rs. 30,000/-. A perusal of the award of the Tribunal shows that the contention of the learned counsel has force. The Tribunal held that the deceased at the time of the accident was; receiving Rs. 516.50 per month. The Tribunal further held that after allowing usual deductions like Provident Fund etc, the net drawings were Rs. 450/- per month which were to be used for the purposes of meeting the expenses of the deceased's family. The family consisted of Vinod Kumar Gupta, his wife, a minor daughter and his mother. Allowing a third part of the aforesaid amount of Rs. 450/- as the expenses incurred by Vinod Kumar Gupta himself the Tribunal concluded that a sum of Rs. 300/- was being spent on the family. The Tribunal further held that there was a net loss of Rs. 300/- per month. It was also held

that Vinod Kumar Gupta was 30 years old at the time of the accident He could have remained in Government service for nearly 28 years more. The Tribunal held that the benefit of Rs. 3007/- per month at least could have been enjoyed by the family for a long period. However, the Tribunal did not make any calculation on this basis, but observed as follows :--

"Keeping in view the above an award of a sum of Rs. 30,000/- may appear to be just This will be the amount which the family would have gained from the deceased in 100 months, but if properly invested it would procure them Rs. 300/- per month and thus make up the financial loss. It is, therefore, found that the damage caused to the claimants by the accident amounts to Rs. 30,000/-."

It appears to us that the sum of Rs. 30,000/- is the product of Rs. 300 (per month) multiplied by 100 (months). It is not understood how the multiple of 100 months was arrived at by the Tribunal No date, nor any basis for the aforesaid multiple has anywhere been disclosed One hundred months is 8.33 years. If the Court was adopting the multiple system, it should have given reasons as to why the figure of 100 months was being adopted instead of the usual multiplier of 16 times the annual contribution. Reported decisions of the High Courts and the Supreme Court have laid down that the proper multiplier should be 16 in a case where the victim is up to 30 years of age. It, therefore, appears to us that the figure of Rs 30,000/- arrived at by the Tribunal was merely a guess work and not based on any accepted principle.

7. There is actually no compensation for the loss of human life in an accident Courts i have adopted various methods for awarding compensation in such a manner that the immediate family members of the deceased may have sufficient financial security. From a catena of decisions of the Supreme Court and the High Courts two discernible methods are noticed The first consists of calculating the amount which the deceased was spending on the members of his family who were dependent on him and multiplying the same by the number of years the deceased was to be in employment The amount would invariably be a large amount The Courts, therefore, adopted a further principle that in view of the lump sum of payment it would be reduced by 20 to 33.33 per cent The discretion was with the Court as to what extent the figure would be reduced The other method is that instead of finding out how many years the deceased would have continued in service i.e., till the age of superannuation, uses a multiplier to the annual amount which the deceased was spending towards the upkeep of the members of his family excluding expenses made on himself. The figure which has been used as a multiplier has been near about the figure 16. This is a method by which the annual expense on the family is multiplied by 16 to arrive at a figure which is not subject to any deduction. These two methods are being adopted by various Courts in this matter.

8. We will now examine a few cases to see how the Courts have come to accept the multiplier system. First case is of the Municipal Corporation of Delhi reported in Municipal Corporation of Delhi Vs. Subhawanti and Others, The Court was

considering as to the principle to be applied in assessing damages. This was a case where three persons died as a result of collapse of a Clock Tower situated in the main Bazar of Chandni Chowk, Delhi belonging to the appellant After referring to Section 1 of the Fatal Accidents Act 1855, their Lordships opined :

" This section is in substance a reproduction of the English Fatal Accidents Acts 9 and 10 Vict. Ch. 93, known as the Lord Campbells Acts. The scope of the corresponding provisions of the English Fatal Accidents Acts has been discussed by the House of Lords in *Davies v. Powell Duffryn Associated Collieries Ltd*, 1942 AC 601. At P. 617 of the Report Lord Wright has stated the legal position as follows: - -

" It is a hard matter of pounds, shillings and pence, subject to the element of reasonable future probabilities. The starting point is the amount of wages which the deceased was earning the ascertainment of which to some extent may depend upon the regularity of his employment Then there is an estimate of how much was required or expended for his own personal and living expenses. The balance will give a datum or basic figure which will generally be turned into a lump sum by taking a certain number of years" purchase. That sum, however, has to be taxed down by having due regard to uncertainties, for instance, that the widow might have again married and thus ceased to be dependent and other like matters of speculation and doubt""

This is the basic principle which has been adopted by the Supreme Court and the High Court In this case the multiplier of 15 years was used. Vinod Kumar Gupta was 30 years old at the time of the accident and it was held that he would have contributed at least 150/-per month for the subsistence of the children. It would be Rs. 1800/- per annum In the case of *Mallet v. Me. Monagle* 1969 ACJ 312 the House of Lords applied the same multiplier system as in the case of *Davies v. Poweli Duffryn Associated Colieries Ltd*. 1942 AC 601. The deceased was in his twenties and the multiplier adopted was 16 years. The view taken in *Davies v. Powell Duffryn Associated Collieries Ltd*. (supra), was followed by the Supreme Court in the case of *Madhya Pradesh State Road Transport Corporation v. Sudhakar* AIR 1977 SC 1189. In this case the deceased was 23 years of age and their Lordships applied multiplier of 20 years" purchase. In the case of *Devki Devi Tiwari v. Raghunath Sahai* 1979 ACJ 169 , a Division Bench of our High Court held that the multiplier should be of 16 years" purchase. In the case of *Lachhman Singh and Others Vs. Gurmit Kaur and Others*, a Full Bench of Punjab High Court held that the multiplier of 16 years would be proper when the deceased was aged 23 years i.e. in his twenties. In a latter case *U. P. State Road Transport Corporation v. Raja Ram Shukla* 1982 ACJ 194: (1981 ALJ 955), a Division Bench held that a multiplier of 16 years" purchase would be proper where the deceased was aged 34 years. In the case of *Chameli Wati and Another Vs. Delhi Municipal Corporation and Others*, the Delhi High Court applied 16 years multiplier where the deceased was 24 years of age. Similarly, Gujarat High Court in the case of *Madhinabhai Nimatbhai v. Gujarat Electricity Board, Baroda*

1984 ACJ 173 applied the same multiplier where the deceased was young.

9. In a case of *Graham v. Dodds* 1984 ACJ 181 (HL), the deceased was aged 41 years. Their Lordships held that the multiplier will be lower.

10. "It is apparent from the above that 16 years" multiplier has been commonly invoked by the High Courts and the Supreme Court where the deceased, in a motor vehicle accident, is in his twenties. The multiplier of 15 has been used where the deceased is over the age of 30. This is justified When a person is in the threshold of his career and in his twenties, his income is less and consequently his contribution to the family is lesser but he has a longer period to serve and as such a higher "multiplier" is called for. As he grows old, his income and contribution to the family increases and he has lesser period to serve, a lower multiplier is justified This principle is not only understandable but, in our opinion, a very wholesome principle. Once this principle is adopted, the Court has first to find out the income of the deceased and the amount that he was spending on the family members (dependants) per month. Thereafter the amount spent per year could be easily arrived at by multiplying the monthly amount by 12. It is this sum to which the multiple of 16 is to be invoked to arrive at the amount to be awarded as compensation As seen above, the multiple of 16 has now been accepted as just and proper. The only exception would be that if the age of the deceased was beyond the age of 30 or beyond 40 the multiple would progressively get reduced.

11. In the present case, the deceased was 30 years of age. He was in Government service and had 28 years to reach the age of superannuation One would naturally expect that he would get progressively better pay and emoluments, but we are not concerned with the same. We are only concerned with the amount that he was earning and in particular the amount that he was spending per month on his family and on himself, The Tribunal held that he was spending 300/- i. e. 3600/- per annum on his family. Applying a multiple of 16, which has been adopted by two Division Benches of our High Court in the case of *Devki Devi Tiwari v. Raghunath Sahai* 1978 ACJ 169 U. P. State Road Transport Corporation v. *Raja Ram Shukla* 1982 ACJ 194: (1981 ALJ 955), the multiple of 16 would be just and proper. 3600×16 would make the total 57,600/-. This according to us would be the proper compensation to be awarded to the claimants, all three of them together. There is no necessity of making any apportionment of this amount the liability for payment of this sum would naturally be of the four respondents. However, a sum of Rs. 50,000/- is liable to be paid by the Insurance Company in view of the provisions of Section 95 of the Act The balance amount of Rs. 7,600/- would be payable by the two owners Gur Baxeesh Singh and Sardarni Kirpal Kaur.

12. We therefore allow the appeal in part and enhance the compensation awarded from 30,000/- to Rs. 57,600/- with interest at 6 per cent per annum and also direct that out of the aforesaid amount Rs. 50,000/- in all would be paid by the Insurance Company respondent No. 3 and the balance amount would be

recovered from the owners of the vehicle respondents 1 and 4. In view of partial success and failure of the appeal, we leave the parties to bear their own costs in this appeal.