A LAXMI DEVI & OTHERS

v.

MOHAMMAD TABBAR & ANOTHER

(Civil Appeal No. 2090 of 2008)

MARCH 25, 2008

B

[S.B. SINHA AND V.S. SIRPURKAR, JJ.]

Motor Vehicles Act, 1988 – Motor accident – Death caused of 35 years old man – Claim for compensation – C *Claimants were his wife and 4 minor daughters – Claims Tribunal awarded compensation on the basis of notional income of Rs. 15,000/- using multiplier of 16 – Rate of interest on compensation directed at the rate of 6% -- High Court increasing the notional income to Rs. 36,000/- while reducing* D *the multiplier to 12 – On appeal, held: In view of the age of the deceased, High Court not right in reducing the multiplier – However, in view of the fact that notional income was increased and rate of interest was only 6%, multiplier of 14 would be appropriate.*

E **'R' aged 35 years, died in an accident. His wife and daughters (appellants) filed claim petition before Motor Accidents Claims Tribunal. They claimed the earning of the deceased to be 4200/- per month. Tribunal assessed the income of the deceased on the basis of notional** F **income of Rs. 15,000/- prescribed in Second Schedule u/s 163-A of Motor Vehicles Act. The multiplier of 16 was used in working out the compensation amount. Interest on the compensation was directed at 6% per annum. In appeal, High Court increased the notional income to Rs.** G **36,000/-, but reduced the multiplier to 12. Interest rate was confirmed. Hence the present appeal by the claimants.**

Allowing the appeal, the Court

HELD: High Court has erred in bringing down the

H

multiplier to 12. In the present case, the deceased was 35 years old. The claimants are his wife and four minor daughters. Even as per the Second Schedule the multiplier in case of the persons between 35 to 40 years is 16. In the present case the rate of interest granted is only 6% considering the general rate of interest prevalent in 2004. Therefore, the proper multiplier would be 14 as the value of the notional income has been increased. [Para 7] [441-B, C & D]

T.N. Transport Corporation Ltd. v. Rajapriya **2005 (6) SCC 236;** *G.M. Kerala SRTC v. Susamma Thomas* **1994 (2) SCC 1760;** *U.P. SRTC v. Trilok Chandra* **1996 (4)SCC 362;***Davies v. Powell Duffryn Associated Collieries Ltd.* **1942 (1) All ER 657 (HL);** *Nance v. British Columbia Electric Rly. Co. Ltd.,* **1951 (2) All ER 448 – referred to.**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2090 of 2008.

From the final Judgment and Order dated 31.8.2006 of the High Court of Uttaranchal at Nainital in A.O. No. 154 of 2006.

Yunus Malik, Abhishek Vikas, Rani Kishore and Prashant Chaudhary for the Appellants.

Ajay Majithia, Rajesh Kumar and Dr. Kailash Chand for the Respondents.

The Judgment of the Court was delivered by

V.S. SIRPURKAR, J. 1. Leave granted.

2. This appeal is filed by the widow and five children of one Rajendra Singh who died in an accident on 12.4.2004 when he was riding on his bicycle and was given a dash by the offending vehicle, a Canter Truck bearing Registration No.UA-04-1486. Rajendra Singh died on the spot. The driver of the offending vehicle was caught on the spot. The claimants, therefore, filed the claim before the Motor Accidents Claims Tribunal on the basis that Rajendra Singh used to earn

A Rs.140/- per day and Rs.4200/- per month and that his age at the time of accident was barely 35 years. In support of the claim, three witnesses including Laxmi Devi, the wife of the deceased were examined and the Tribunal, on the basis of the evidence, held that the deceased Rajendra Singh died on account of the B injuries sustained by him in the accident on 12.4.2004 which accident had occurred due to rash and negligent driving of the offending vehicle. As regards the income, the Tribunal assessed the same at Rs.15,000/- per annum on the basis of the notional income prescribed in Second Schedule under Section 163-A C of the Motor Vehicles Act. After deducting 1/3rd of the said amount as the personal expenses of the deceased, the claimants' dependency was assessed at Rs.10,000/- per month and by multiplying the annual dependency of Rs.10,000/- with the multiplier of 16, the compensation was worked out to D Rs.1,60,000/-. The other claims were also awarded being Rs.2,000/- for funeral expenses, Rs.5,000/- for loss of consortium to the widow and Rs.2,000/- for loss of estate. Thus a total sum of Rs.1,69,000/- was awarded as compensation to the claimants. The Tribunal directed the payment of interest on the amount of compensation at the rate of 6% per annum from E the date of claim petition.

3. An appeal came to be filed before the High Court by the claimants. No appeal, however, was filed by the Insurance Company or the owner of the vehicle. It was contended before F the High Court that there was no basis for arriving at the notional income at Rs.15,000/- per annum and in fact the income was much more than that for which the evidence of Laxmi Devi was led. Therefore, the enhanced compensation was claimed in the appeal. As against this it was argued that the Tribunal had erred in applying the higher multiplier of 16. Reliance was placed on G a reported decision of this Court in **T.N. State Transort Corporation Ltd. v. Rajapriya and [(2005) 6 SCC 236].**

4. The High Court confirmed the earlier findings regarding the negligence of death. However, the High Court came to the H conclusion that though the claim of the income of Rs.4200/- per

month was not reliable, the notional income should have been held to be Rs.36,000/- per annum, i.e., Rs.3,000/- per month. For this proposition the High Court held that the notional income of Rs.15,000/- in the Second Schedule was prescribed in the year 1994 while the accident had taken place in the year 2004. The second reason given by the High Court was that even an unskilled labourer, these days, can easily earn Rs.100/- per day and Rs.3,000/- per month and, therefore, the High Court held the income to be Rs.36,000/- per annum and by deducting 1/ 3rd of the income of the deceased for his personal expenses, the claimants' dependency was assessed at Rs.24,000/- per annum. However, the High Court reduced the multiplier of 16 applied by the Tribunal to 12. For this action, the High Court relied on the aforementioned judgment in **T.N. Transports Corporation's case**. The High Court thus applied the multiplier of 12 instead of 16 and ultimately the High Court arrived at the figure of Rs.2,88,000/- and to this the other compensation on account of funeral expenses, loss of consortium to the widow and loss of estate, which were granted by the Tribunal, were added and the total compensation of Rs.2,97,000/- was awarded by the High Court. The claimants, dissatisfied with this finding, have filed this appeal before us.

5. Learned counsel for the claimants urged that the High Court erred in applying the multiplier of 12 particularly when the deceased was only 35 years old and none of the claimants was more than that age. Learned counsel further urged that the deceased had left behind four minor daughters along with a young wife. It was urged that considering the fact that only 6% interest was granted, the multiplier of 12 was not a proper multiplier and the multiplier as found by the Tribunal should have been retained. As against this, the learned counsel for the Insurance Company supported the order of the High Court and claimed that in fact the compensation granted by the High Court was on higher side.

6. We have considered the contentions as well as the law laid down in **T.N. Transport Corporation's case (supra)**. In

A the said decision this Court, after considering the rulings in **G.M. Kerala SRTC v. Susamma Thomas [(1994) 2 SCC 1760, U.P. SRTC v. Trilok Chandra [(1996) 4 SCC 362]** as also the other English cases such as **Davies v. Powell Duffryn Associated Collieries Ltd. [(1942) 1 All ER 657 (HL)] and** B **Nance v. British Columbia Electric Rly. Co. Ltd., [(1951) 2 All ER 448]** observed in para 12 that:

> "The multiplier method involves the ascertainment of the loss of dependency or the multiplicand having regard to the circumstances of the case and capitalizing the C multiplicand by an appropriate multiplier. The choice of the multiplier is determined by the age of the deceased (or that of the claimants whichever is higher) and by the calculation as to what capital sum, if invested at a rate of interest appropriate to a stable economy, would yield the D multiplicand by way of annual interest. In ascertaining this, regard should also be had to the fact that ultimately the capital sum should also be consumed-up over the period for which the dependency is expected to last."

E This Court then observed in para 16 as under:

> "In *Susamma Thomas case* it was noted that the normal rate of interest was about 10% and accordingly the multiplier was worked out. As the interest rate is on the decline, the multiplier has to consequentially be raised. F Therefore, instead of 16 the multiplier of 18 as was adopted in *Trilok Chandra case* appears to be appropriate."

It was also further observed by this Court that:

> "The highest multiplier has to be for the age group of 21 G years to 25 years when an ordinary Indian citizen starts independently earning and the lowest would be in respect of a person in the age group of 60 to 70, which is the normal retirement age."

In para 17 of the judgment this Court came to the H conclusion that the appropriate multiplier would be 12 and not

16 in case of a person where the deceased was 38 years old and the interest was granted at 9% per annum from the date of claim petition. The Court, therefore, reduced the multiplier from 16 to 12 and also reduced the rate of interest to 7.5% per annum. It seems that based on that findings the High Court has reduced the multiplier in the present case.

7. Considering the above principles in this case, we must say that the High Court has definitely erred in bringing down the multiplier to 12. It is to be seen that in this case the deceased was 35 years old. The claimants are his wife and four minor daughters. Even as per the Second Schedule the multiplier in case of the persons between 35 to 40 years is 16. In the present case the rate of interest granted is only 6% considering the general rate of interest prevalent in 2004. In our opinion, therefore, the proper multiplier would be 14 as the value of the notional income has been increased. It was nobody's case that the deceased was not working at all. His wife has entered in the witness box and had asserted that he earned Rs.140/- per day. Even if we ignore the exaggeration, the figure arrived at by the High Court at Rs.100/- per day and Rs.3,000/- per month appears to be correct. However, considering that the claimant would get only 6% interest, we would chose to grant the multiplier of 14 instead of 12. Accordingly the notional income as applied would be Rs.24,000 x 14 = Rs.3,36,000/- and to this will be added the other compensation like Rs.2,000/- as funeral expenses, Rs.5,000/- for the loss of consortium to the widow and Rs.2,000/- for the loss of estate. The claimants would, therefore, be entitled to a sum of Rs.3,45,000/-. The said sum shall carry the interest at the rate of 6% per annum from the date of claim petition.

8. In view of the above, the appeal is allowed. There would be no order as to costs.

K.K.T. Appeal allowed.