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RAMESH SINGH & ANR.

v.

SATBIR SINGH & ANR.

(Civil Appeal Nos. 545-546 of 2008)

JANUARY 21, 2008

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(S.B. SINHA AND V.S. SIRPURKAR, JJ.)

Motor Vehicles Act, 1988:

s. 163-A – Appropriate multiplier – At the time of accident C *deceased son aged 22 years and claimant father 55 years – HELD: Choice of multiplier is determined by age of deceased or claimant, whichever is higher – Taking the age of father to be 55 years, courts below did not commit any illegality in applying multiplier of 8 – Relief u/s 163-A is not additional but* D *alternate – Second Schedule to the Act can only be used as a guide.*

In the instant appeals for further enhancement of compensation, filed by the father who was aged about 55 years at the time of death of his young son, who died in a E **motor accident, it was contended for the appellants that the Motor Accident Claims Tribunal and the High Court erred in applying the multiplier of 8, and instead, in view of provisions of s.163-A considering the age of the deceased being 22 years at the time of the accident, the** F **multiplier of 16 should have been applied. It was alternatively contended that the age of the mother being 52 years, at that time, at least a multiplier of 11 should have been applied.**

G **Dismissing the appeals, the Court**

HELD: 1.1 The choice of multiplier is determined by the age of the deceased or claimants whichever is higher. Admittedly, the age of the father was 55 years. The question of mother's age never cropped up because that

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was not the contention raised even before the trial court or before this court. Taking the age of the father to be 55 years, the courts below have not committed any illegality in applying the multiplier of 8 since he was running 56th year of his life. [para 4] [962-G-H]

1.2 The relief u/s 163-A of the Motor Vehicles Act, 1988 has been held not to be additional but alternate. The Second Schedule to the Act is to be used not only referring to age of victim but also other factors relevant therefor. Complicated questions of facts and law arising in accident cases cannot be answered all times by relying on mathematical equations. The Schedule can only be used as a guide. The selection of multiplier cannot in all cases be solely dependent on the age of the deceased. If a youngman is killed in the accident leaving behind aged parents who may not survive long enough to match with a high multiplier provided by the Second Schedule, then the Court has to offset such high multiplier and balance the same with the short life expectancy of the claimants. That precisely has happened in this case. The Courts below rightly struck the said balance. [para 5] [963-C-G]

New India Assurance Co. Ltd. v. Charlie **(2005) 10 SCC 720;** *Deepal Girishbhai Soni vs. United India Insurance Co. Ltd.* **(2004) 5 SCC 385;** *U.P.State Road Transport Corporation vs. Trilok Chandra* **(1996) 4 SCC 362;** *Oriental Insurance Co. Ltd. vs. Syed Ibrahim & Ors.* **JT 2007(11) SC 113 – relied on.**

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 545-546 of 2008.

From the final Judgment and Order dated 31.1.2007 of the High Court of Delhi at New Delhi in MAC APP. Nos. 330-331 of 2006.

Manjeet Chawla for the Appellants.

Praveen Swarup for the Respondents.

A The Judgment of the Court was delivered by

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

2. Not being satisfied with the Judgment of the High Court enhancing the compensation by a sum of Rs.50,000/-, the B parents of deceased Banu Pratap Singh have filed these appeals. Deceased Banu Pratap Singh was killed in an accident on 29.3.2004 involving a truck which was being driven by first respondent, Satbir Singh. The truck belonged to Municipal Corporation of Delhi. At the time of his death, Bhanu C Pratap Singh was about 22 years of age. It was claimed by the first appellant, i.e., the father of the deceased that he was 41 years old at the time of death of Bhanu Pratap Singh. The Trial Court, on the basis of the evidence, came to the conclusion that the annual loss of dependency regarding Bhanu Pratap Singh D could be taken at Rs.28,992/-. It was further held that Appellant No.1, the father of the deceased was 55 years of age at the time of accident and that is how the Trial Court applied the multiplier of 8 years and held that the total loss of dependency was Rs.2,31,936/-. Further compensation of Rs.2,000/- for E funeral expenses and Rs.2500/- on account of loss of estate was added to the above sum and total compensation of Rs.2,36,436/- was awarded with interest at 6% from the date of filing of the petition till realization. It was held that both respondents, namely, the driver and the owner, i.e., Municipal Corporation of Delhi were jointly and severally liable to pay the F compensation, however, primary obligation to pay the compensation was fixed against second respondent. An appeal was filed by the appellants herein before the High Court wherein three grounds were raised. It was firstly contended that the future prospects were ignored by the Tribunal; secondly it was G contended that the Tribunal was wrong in adopting the multiplier of 8 as the father of the deceased was only 41 years of age at the time of death; and the third contention was that no compensation was awarded for the loss of love and affection of a son to the parents. The High Court disbelieved the theory that H the father was only 41 years of age on the date of the accident

or that he was confused when he mentioned his age to be 55 years at the time of evidence. The High Court also disbelieved the High School certificate in relation to the father and held the claim to be absurd. The High Court considered the first and the second contentions together since they were inter-related and held that increase of Rs.50,000/- would be reasonable, taking into account the possibility of increase in minimum wages, due to loss of love and affection of the child and pain and sufferings which the parents would live all their life. The High Court passed the order accordingly.

3. Learned counsel appearing on behalf of the appellant very fairly does not argue the question of the age of the father and accepted the findings that the father was 55 years at the time of the accident and not 41 years as claimed by him in the appeal filed before the High Court. However, as regards the application of the multiplier, the learned counsel heavily relied on the Second Schedule and contends that this was the case under Section 163A of the Motor Vehicles Act and since the age of the deceased was only 22 years, the multiplier of 16 was liable to be made applicable. Alternatively, the counsel submits that atleast the multiplier of 11 ought to have been made applicable considering the age of the Appellant No.2, the mother of the deceased, to be 52 years.

4. We have given anxious consideration to these contentions and are of the opinion that the same are devoid of any merits. Considering the law laid down in *New India Assurance Co. Ltd. v. Charlie* [(2005) 10 SCC 720], it is clear that the choice of multiplier is determined by the age of the deceased or claimants whichever is higher. Admittedly, the age of the father was 55 years. The question of mother's age never cropped up because that was not the contention raised even before the Trial Court or before us. Taking the age to be 55 years, in our opinion, the courts below have not committed any illegality in applying the multiplier of 8 since the father was running 56th year of his life.

A 5. The learned counsel relying on the 2nd Schedule of the Act contended that the deceased being about 16 or 17 years of age, a multiplier of 16 or 17 should have been granted. It is undoubtedly true that Section 163-A was brought on the Statute book to shorten the period of litigation. The burden to prove the B negligence or fault on the part of driver and other allied burdens u/s 140 or 166 were really cumbersome and time consuming. Therefore as a part of social justice, a system was introduced via Section 163-A wherein such burden was avoided and thereby a speedy remedy was provided. The relief u/s 163-A C has been held not to be additional but alternate. The Schedule provided has been threadbare discussed in various pronouncements including *Deepal Girishbhai Soni* vs. *United India Insurance Co. Ltd.* [(2004) 5 SCC 385]. 2nd Schedule is to be used not only referring to age of victim but also other factors D relevant therefor. Complicated questions of facts and law arising in accident cases cannot be answered all times by relying on mathematical equations. In fact in *U.P.State Road Transport Corporation* vs. *Trilok Chandra* [(1996) 4 SCC 362], Ahmedi, J. (As the Chief Justice then was) has pointed out the shortcomings in the said Schedule and has held that the E Schedule can only be used as a guide. It was also held that the selection of multiplier cannot in all cases be solely dependent on the age of the deceased. If a youngman is killed in the accident leaving behind aged parents who may not survive long enough to match with a high multiplier provided by the 2nd F Schedule, then the Court has to offset such high multiplier and balance the same with the short life expectancy of the claimants. That precisely has happened in this case. Age of the parents was held as a relevant factor in case of minor's death in recent decision in *Oriental Insurance Co. Ltd.* vs. *Syed Ibrahim & Ors.* G [JT 2007(11)SC 113). In our considered opinion, the Courts below rightly struck the said balance.

6. With this, we dispose of these appeals. There will be no order as to costs.

H R.P. Appeals dismissed.