

SUPREME COURT OF INDIA

Asha Verman

Vs.

Maharaj Singh

C.A.Nos.3211-3212 of 2015
(V.Gopala Gowda and C.Nagappan JJ.)

27.03.2015

JUDGMENT

V. GOPALA GOWDA, J.

1. Leave granted.

2. These appeals have been filed by the appellants against the final judgment and order dated 22.02.2013 passed by the High Court of Madhya Pradesh at Jabalpur in M.A. No.480 of 2008, wherein the High Court partly allowed the appeal of the appellants and dismissed the review petition No.256 of 2013 dated 21.6.2013.

3. The necessary relevant facts are stated hereunder to appreciate the case with a view to determine whether the appellants are entitled for enhancement of compensation amount as prayed in these appeals? On 27.11.2006, Jhabbu Verman, aged 35 years, was on his way back from Tripuri to Garha (Jabalpur) on his motorcycle bearing registration No. MP- 20-Y-7669 and met with an accident when a truck bearing registration No. MP- 20-GA-2221 being driven by respondent No.1 rashly and negligently collided with the back of his motorcycle. As a result of the same, Jhabbu Verman fell towards his right and the wheel of the vehicle ran over his hands which lead to severe damage to his left hand. Due to the grievous injuries caused in the said accident, he was immediately taken to the Mahakaushal College and Hospital and he remained under medical treatment from 28.11.2006, during which period he underwent an operation and plastic surgery twice on his chest and was advised for amputation of his left hand. However, due to the severity of injuries caused to him in the accident, Jhambu Verman died on 08.12.2006.

4. A claim petition under Section 166 of the Motor Vehicle Act, 1988 was filed on 06.01.2007 before the Motor Accidents Claims Tribunal (for short 'the Tribunal'), at Jabalpur, M.P. by the appellant No.1 - wife of the deceased, appellant Nos.2 & 3

- minor children of the deceased, appellant Nos. 4 & 5-parents of the deceased, claiming Rs.31,70,000/- as compensation for loss caused due to the death of Jhambu Verman. The Tribunal after considering the facts, circumstances and evidence on record of the case on hand, passed an Award dated 08.10.2007 by awarding a total compensation of Rs.3,75,500/- at an interest rate of 6.5% per annum to the appellants.

5. Aggrieved by the insufficient compensation awarded by the Tribunal in its Award, the appellants preferred an Appeal before the High Court of Madhya Pradesh at Jabalpur for enhancement of compensation urging various grounds. The High Court after examining the facts, circumstances and evidence on record enhanced the amount to a total compensation of Rs.5,35,000/- under all heads with interest at the rate of 8% per annum. The following is the breakup of compensation under various heads awarded by the High Court:-

Loss of dependency	- Rs. 4,50,000/-
Funeral Expenses	- Rs. 5,000/-
Loss of estate	- Rs. 5,000/-
Loss of consortium	- Rs. 5,000/-
Loss of love and affection	- Rs. 20,000/-
Towards pecuniary Loss	- Rs. 50,000/-

TOTAL	- Rs. 5,35,000/-

6. The appellants filed a review petition before the High Court which was dismissed on 21.06.2013. The appellants have challenged both the orders by filing special leave for enhancement of the compensation amount. It has been contended by the learned counsel for the appellants that the High Court has wrongly assessed the monthly salary at Rs.3,500/- per month and failed to appreciate that the deceased was 35 years of age and was working as a technician at Mahakaushal Hospital and that he was getting a salary of Rs.4617/- per month. Further, it is contended that the High Court failed to appreciate that Rajnikant Tiwari (PW-3), Occupation Manager, Mahakaushal Hospital, Jabalpur, has stated that the deceased was an operation theatre technician at the Hospital and was getting a salary of Rs.4,600/- per month. Further, the courts below failed to consider the legal principles laid down by this Court with respect to calculation of future prospects of income of the deceased in the case of Sarla Verma v. DTC[1], according to which

case 50% of the actual salary is to be added to the income of the deceased if he is in a permanent job and below the age of 40 years. Therefore, it is contended that on applying the said principles laid down by this Court in the above said case, the income of the deceased for calculation of loss of dependency should be taken at Rs.6,900/- [Rs. 4,600/- + 50% of Rs. 4,600/-].

7. It is further contended by him that the deduction towards personal and living expenses of the deceased should be one-fourth by applying the law laid down in Sarla Verma (supra) and not one-third as taken by the courts below.

8. It is further contended by him that the High Court has failed to appreciate that the wife of the deceased spent about Rs.1,40,000/- on medical treatment of her husband(deceased) and bills for Rs.1,23,630/- for treatment have been produced in support of the same. On the other hand, it has been contended by the learned counsel for the respondent No.3-Insurance Company that the High Court already enhanced the just and reasonable compensation after examining the facts and circumstances of the case and evidence on record and therefore, submitted that the appellants are not entitled for further enhancement of compensation as claimed in these appeals.

9. It is further contended by the learned counsel on behalf of the Insurance Company that the High Court has rightly upheld the observation made by the Tribunal that no cogent evidence has been adduced to prove that the deceased was in a permanent job and was getting salary of Rs.4,617/- per month.

10. Further, it is contended by him that the Tribunal has rightly disbelieved the bills of Rs.1,23,630/- as Ex. P11 alleged to be spent on the treatment of deceased and the same has been duly considered by the High Court. Hence, the impugned judgment does not require interference by this Court. We have heard the learned counsel for both the parties and also examined the facts and circumstances of the case and the evidence on record. We are of the considered view that the courts below have erred in the calculation of loss of dependency by wrongly ascertaining the income of the deceased at the time of his death. It is clear that the deceased at the time of his death was working in the operation theatre as a technician in the permanent post at the Hospital and was earning Rs.4,617/- per month (rounded off to Rs.4,600/-). On applying the principles as laid down in the case of Sarla Verma (supra), 50% of the salary must be added to the income of the deceased towards future prospects of income, which comes to Rs.6,900/- per month, i.e. Rs.82,800/- per annum. Deducting 1/4th for personal expenses and applying the appropriate multiplier taking into consideration the age of the deceased at the time of his death

as per Sarla Verma (supra), the total loss of dependency comes to Rs.9,93,600/- [(Rs.82,800/- (-) 1/4 X Rs.82,800/-)X 16].

11. Further, Rs.1,40,000/- was spent by the appellant-wife for medical purposes of her husband(deceased) during the period of treatment before his death. Accordingly, we award an amount of Rs.1,40,000/- towards medical expenses incurred for the treatment of the deceased.

12. Further, the High Court has erred in awarding only Rs. 5,000/- each towards loss of estate, funeral expenses and loss of consortium. We award Rs.1,00,000/- towards loss of estate according to the principles laid down in the case of Kalpanaraj & Ors. v. Tamil Nadu State Transport Corporation[2], Rs.25,000/- towards funeral expenses and Rs.1,00,000/- towards loss of consortium as per the principles laid down by this Court in the case of Rajesh & Ors. v. Rajbir Singh & Ors.[3] Further, we award Rs.1,00,000/- each to the appellant-children towards loss of love and affection due to the loss of their father(deceased) as per the decision of this Court in the case of Juju Kuruvila & Ors. v. Kunjamma Mohan & Ors.[4]. Further, a sum of Rs.50,000/- is awarded to each of the appellant-parents towards loss of love and affection of their deceased son as per the principles laid down by this Court in the case of M. Mansoor & Anr v. United India Insurance Co. Ltd.[5].

13. Further, the High Court has erred in awarding an interest at the rate of 8% per annum only, instead of 9% per annum on the compensation amount as per the principles laid by this Court in the case of Municipal Corporation of Delhi v. Association of Victims of Uphaar Tragedy[6]. We accordingly award an interest at the rate of 9% per annum on the compensation amount. In the result, the appellant shall be entitled to compensation under the following heads:

1.	Loss of dependency	Rs.9,93,600/-	
2.	Loss of estate	Rs.1,00,000/-	
3.	Loss of consortium	Rs.1,00,000/-	
4.	Loss of love and affection	Rs.2,00,000/-	
	to children		
5.	Funeral expenses	Rs.25,000/-	
6.	Medical expenses	Rs.1,40,000/-	
7.	Loss of love and affection	Rs.1,00,000/-	
	to parents		
	TOTAL	Rs. 16,58,600/-	

14. Further, though all the appellants are legally entitled for equal share of Rs.1,98,720/- (Rs.9,93,600/- divided by 5) each out of the compensation awarded

towards loss of dependency, however, by keeping in mind the age of the parents of the deceased and also the future educational requirements of the minor-children of the deceased, we are of the view that the parents of the deceased shall be entitled to 1 lakh each out of the total compensation amount awarded towards loss of dependency and the remaining part of their share (i.e. Rs.98,720/- each) shall be equally divided and added to the appellant-minors' share of compensation. Therefore the following is the apportionment of the amount awarded towards loss of dependency of the appellants with proportionate interest:

Appellant No.1 - Rs. 1,98,720/-

Appellant No.2 - Rs. 2,97,440/-

Appellant No.3 - Rs. 2,97,440/-

Appellant No.4 - Rs. 1,00,000/-

Appellant No.5 - Rs. 1,00,000/-

15. Thus, the total compensation payable to the appellants by the respondent-Insurance Company will be Rs. 16,58,600/- with interest at the rate of 9% p.a. from the date of filing of the application till the date of payment. The respondent-Insurance Company is directed to deposit the sum payable to the appellant-children with proportionate interest awarded by this Court in fixed deposit in any nationalised bank as per the preference of appellant- No.1/guardian till the appellant Nos. 2 and 3 attain majority with the liberty to the mother/guardian to withdraw interest & such amounts for their education, development and welfare by filing the appropriate application before the Motor Accidents Claims Tribunal, Jabalpur. The respondent-Insurance Company shall either pay the remaining compensation amount by way of demand-draft in favour of the appellant Nos.1, 4 and 5 or deposit the same with interest as awarded before the Motor Accidents Claims Tribunal, Jabalpur, after deducting the amount already paid to the appellants, if any, within six weeks from the date of receipt of the copy of this judgment.

16. The appeals are allowed as per the above said directions. No Costs.

[1] [2] (2009) 6 SCC 121 [3] [4] 2014 (5) SCALE 479 [5] [6] (2013) 9 SCC 54 [7] [8] (2013)9 SCC 166 [9] [10] 2013 (12) SCALE 324 [11] [12] (2011) 14 SCC 481