

Supreme Court of India

Munna Lal Jain & Anr vs Vipin Kumar Sharma & Ors on 15 May, 2015

Author: Kurian

Bench: Anil R. Dave, Madan B. Lokur, Kurian Joseph

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4497 OF 2015
(Arising from S.L.P. (C) No. 8362/2013)

Munna Lal Jain and another

Appellant (s)

Versus

Vipin Kumar Sharma and others

Respondent (s)

J U D G M E N T

KURIAN, J.:

Leave granted.

The never ending dispute on computation of compensation under the Motor Vehicles Act, 1988 (hereinafter referred to as the Act), is the subject matter of this appeal as well.

In the absence of any statutory and a straight jacket formula, there are bound to be grey areas despite several attempts made by this Court to lay down the guidelines. Compensation would basically depend on the evidence available in a case and the formulas shown by the courts are only guidelines for the computation of the compensation. That precisely is the reason the courts lodge a caveat stating ordinarily, normally, exceptional circumstances, etc., while suggesting the formula.

In the case before us, the appellants are the claimants before the Motor Accidents Claims Tribunal, Karkardooma, Delhi in M.A.C.T. No. 736/2008. They are the parents of late Satendra Kumar Jain, aged 30 years, who died in a motor accident on 12.07.2008. He was self-employed as Pandit. He was a bachelor. Hence, the claim by the parents.

The appellants claimed an amount of Rs.95,50,000.00. The Claims Tribunal awarded a total compensation of Rs.6,59,000.00 including loss of dependency to the tune of Rs.6,24,000.00 with interest @ 7.5 per cent from the date of institution of the petition. Dissatisfied, appellants approached the High Court of Delhi in MAC APP. 687/2011 leading to the impugned judgment. The High Court enhanced the compensation and fixed it at Rs.12,61,800.00 with interest as ordered by

the Claims Tribunal.

The High Court fixed the monthly income to Rs.12,000.00 and added 30% towards future prospects relying on Santosh Devi v. National Insurance Company Limited[1]. 50 per cent was deducted towards personal expenditure and a multiplier of 13 was applied. Still not satisfied, the claimants are before this Court.

On 08.02.2013, this Court issued notice confined to the issues on application of correct multiplier and reduction of the amount. In other words, the Court intended to consider the appeal limited to the question of application of multiplier and deduction on account of personal and living expenses.

On the issue of deduction towards personal and living expenses in Sarla Verma (Smt.) and others v. Delhi Transport Corporation and another[2], at paragraph-31, it was held that:

31. 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. The deduction ordinarily in the case of a bachelor at 50 % was approved recently by a three-Judge Bench decision in Reshma Kumari and others v. Madan Mohan and another[3], holding that the standard fixed in Sarla Verma (supra) on the aspect of deduction for personal and living expenses must ordinarily be followed unless a case for departure in the circumstances noted in the preceding paragraph is made out. Preceding paragraph-41 reads as follows:

41. The above does provide guidance for the appropriate deduction for personal and living expenses. One must bear in mind that the proportion of a mans net earnings that he saves or spends exclusively for the maintenance of others does not form part of his living expenses but what he spends exclusively on himself does. The percentage of deduction on account of personal and living expenses may vary with reference to the number of [pic]dependent members in the family and the personal living expenses of the deceased need not exactly correspond to the number of dependants. In the case before us, there are no such exceptional circumstances or compelling reasons for deviation on the basis of evidence and therefore deduction of 50% towards the personal and living expenses is not to be disturbed.

As far as future prospects are concerned, in Rajesh and others v. Rajbir Singh and others[4], a three-Judge Bench of this Court held that in case of self-employed persons also, if the deceased victim is below 40 years, there must be addition of 50% to the actual income of the deceased while computing future prospects. To quote:

8. Since, the Court in Santosh Devi case actually intended to follow the principle in the case of salaried persons as laid down in Sarla Verma case and to make it applicable also to the self-employed and persons on fixed wages, it is clarified that the increase in the case of those groups is not 30% always; it will also have a reference to the age. In other words, in the case of self-employed or persons with fixed wages, in case, the deceased victim was below 40 years, there must be an addition of 50% to the actual income of the deceased while computing future prospects. Needless to say that the actual income should be income after paying the tax, if any. Addition should be 30% in case the deceased was in the age group of 40 to 50 years. The deceased being of the age of 30 years, 50% is the required addition.

The remaining question is only on multiplier. The High Court following Santosh Devi (supra), has taken 13 as the multiplier. Whether the multiplier should depend on the age of the dependants or that of the deceased, has been hanging fire for sometime; but that has been given a quietus by another three-Judge Bench decision in Reshma Kumari (supra). It was held that the multiplier is to be used with reference to the age of the deceased. One reason appears to be that there is certainty with regard to the age of the deceased but as far as that of dependants is concerned, there will always be room for dispute as to whether the age of the eldest or youngest or even the average, etc., is to be taken. To quote:

36. In Sarla Verma, this Court has endeavoured to simplify the otherwise complex exercise of assessment of loss of dependency and determination of compensation in a claim made under Section 166. It has been rightly stated in Sarla Verma that the claimants in case of death claim for the purposes of compensation must establish (a) age of the deceased; (b) income of the deceased; and (c) the number of dependants. To arrive at the loss of dependency, the Tribunal must consider (i) additions/deductions to be made for arriving at the income; (ii) the deductions to be made towards the personal living expenses of the deceased; and (iii) the multiplier to be applied with reference to the age of the deceased. We do not think it is necessary for us to revisit the law on the point as we are in full agreement with the view in Sarla Verma. In Sarla Verma (supra), at paragraph-19, a two-Judge Bench dealt with this aspect in Step 2. To quote:

19. xxx xxx xxx Step 2 (Ascertaining the multiplier) Having regard to the age of the deceased and period of active career, the appropriate multiplier should be selected. This does not mean ascertaining the number of years he would have lived or worked but for the accident. Having regard to several imponderables in life and economic factors, a table of multipliers with reference to the age has been identified by this Court. The multiplier should be chosen from the said table with reference to the age of the deceased. The multiplier, in the case of the age of the deceased between 26 to 30 years is 17. There is no dispute or grievance on fixation of monthly income as Rs.12,000.00 by the High Court.

Thus, the appellants are entitled to compensation of Rs.18,36,000.00 towards loss of dependency, which is calculated as follows | Calculation | Total (in Rs.) | |? Rs.12,000/- (Monthly Income) | 18,000.00 | | | | add [50% of Rs.12,000/-(Future Prospects)] = | | |? 50% of [Rs.18,000/-(Deductions)] = | 9,000.00 | |? [Rs.9,000/-] multiply by [12(Annual Income)] = | 1,08,000.00 | |? [Rs.1,08,000/-] multiply by [17(Multiplier)] = | 18,36,000.00 | There shall be no change on the

amounts awarded by the High Court on other heads or on rate of interest.

The appeal is allowed as above. There shall be no order as to costs.

.....J.

(ANIL R. DAVE)J.

(MADAN B. LOKUR) ...J.

(KURIAN JOSEPH) New Delhi;

May 15, 2015.

- [1] (2012) 6 SCC 421
- [2] (2009) 6 SCC 121
- [3] (2013) 9 SCC 65
- [4] (2013) 9 SCC 54

REPORTABLE