

REBEKA MINZ AND ORS.

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v.

DIVISIONAL MANAGER, UNITED INDIA INSURANCE CO.
LTD. AND ANR.

(Civil Appeal Nos. 5399-5400 of 2012)

AUGUST 23, 2012

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**[G.S. SINGHVI AND FAKKIR MOHAMED IBRAHIM
KALIFULLA, JJ.]**

Motor Vehicles Act, 1988 - Accidental death - Quantum of compensation - Appropriate multiplier - Rate of interest payable - Held: Since the deceased was stated to be 35 years old at the time of his death, the multiplier would be 16 which has to be applied for calculating the compensation - The Tribunal had found that after deducting 1/3rd of personal expenses, the monthly income of the deceased was Rs.7,000/- and the net contribution to the family was ascertained at Rs. 84,000/- p.a - Applying the multiplier of 16, the compensation works out to Rs. 13,44,000/- - Said sum of Rs. 13,44,000/- to carry interest @ 7% p.a. from the date of application till the date of realization.

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One person while riding on a scooter met with an accident due to rash and negligent driving of the driver of a truck and consequently died. The appellants being the wife and children of the deceased preferred claim before the Motor Accidents Tribunal. The Tribunal awarded a sum of Rs.10,08,000/- as compensation alongwith interest @ 7% for specified period. While appellants were aggrieved insofar as the Tribunal applied the multiplier 12 instead of 17, having regard to the fact that the deceased at the time of his death was 35 years old as well as non-grant of interest for certain period, the first respondent-insurance company was aggrieved of the

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A very award of compensation itself. In appeal, the High Court reduced the amount of compensation to Rs.5,00,000/- and also the rate of interest to 6% (payable from the date of the claim application till deposit of the amount). Hence the present appeals.

B Allowing the appeals, the Court

HELD: 1. The impugned order of the High Court being a non-speaking order calls for interference. [Para 3] [385-A]

C 2.1. Since the deceased was stated to be 35 years old at the time of his death, the multiplier would be 16 which has to be applied for calculating the compensation. The Tribunal after examining the materials before it, found that after deducting 1/3rd of personal expenses, the monthly income of the deceased was Rs.7,000/- and the net contribution to the family was ascertained at Rs. 84,000/- per annum. Applying the multiplier of 16, the compensation works out to Rs. 13,44,000/-. Therefore, while setting aside the order of the High Court insofar as it reduced the quantum of compensation, the compensation payable to the appellants is modified to a sum of Rs. 13,44,000/- [84,000/- x 16]. The said sum of Rs. 13,44,000/- should carry interest at the rate of 7% per annum from the date of application till the date of realization. [Para 5] [386-A-C]

2.2. The first respondent is, therefore, directed to pay to the appellants the total amount of compensation in the sum of Rs. 13,44,000/- after giving credit to whatever payment already made by calculating the rate of interest from the date of application till realization. Such payment should be made in the proportion as set out by the Tribunal in the last para of its order dated 10.07.2007. With the above modification in the quantum of compensation and the rate of interest payable right from the date of

application, the compensation shall be made within a period of three months from the date of this order. [Para 6] [386-D-F]

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Santosh Devi v. National Insurance Company Ltd. & Ors. 2012 (6) SCC 421; *Sarla Verma & Ors. v. Delhi Transport Corporation & Anr.* 2009 (6) SCC 121: 2009 (5) SCR 1098 - relied on.

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Case Law Reference:

2012 (6) SCC 421	relied on	Para 4, 5
2009 (5) SCR 1098	relied on	Para 4

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CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 5399-5400 of 2012.

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From the Judgment & Order dated 05.03.2009 of the High Court of Orissa, Cuttack in M.A.C.A. No. 953 of 2007 and M.A.C.A. No. 821 of 2007.

P.M. Misra, K.N. Tripathy for the Appellants.

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Devabrata for the Respondents.

The Judgment of the Court was delivered by

FAKKIR MOHAMED IBRAHIM KALIFULLA, J. 1. These appeals at the instance of the claimants before the Motor Accidents claims Tribunals challenge the common order of the High Court of Orissa, Cuttack dated 05.03.2009 passed in MACA No.821 of 2007 and MACA No.953 of 2007. MACA No. 821 of 2007 was preferred by the appellants while MACA No.953 of 2007 was preferred by the first respondent-Insurance company in the High Court. The husband of the first appellant died in an accident on 04.01.1995 when he was returning from the plant site on a scooter bearing registration No. OR-06-7703 around 6.30 a.m. near NALCO Nagar on NH-42 at a place called Smelter Chhak, due to rash and negligent driving of the

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A driver of the truck bearing registration No. ORA-4241.

2. The appellants being the wife and children of the deceased preferred the claim before the Motor Accidents Tribunal in MAC case No.21 of 1995. The Tribunal, after analyzing the entire evidence placed before it, awarded a sum of Rs. 10,08,000/- as compensation along with interest at the rate of 7% per annum with effect from 03.02.1995 to 22.08.1995 and again from 16.01.2007 till the payment within one month. While the appellants were aggrieved insofar as the Tribunal applied the multiplier 12 instead of 17, having regard to the fact that the deceased at the time of his death was 35 years old as well as non-grant of interest for certain period, the first respondent was aggrieved of the very award of compensation itself. The High Court while disposing of the appeal reduced the compensation awarded by the Tribunal and also the rate of interest by holding as under:-

"Considering the submissions of the learned counsel for the parties and keeping in view findings of the learned Tribunal with regard to the quantum of compensation amount awarded and the basis on which the same has been arrived at, I feel, the interest of justice would be best served if the awarded compensation amount of Rs.10,08,000/- is modified and reduced to Rs. 5,00,000/- which is payable to the claimants. The claimants are also entitled to interest @ 6% per annum from the date of the claim application, till deposit of the amount. The impugned award is modified to the said extent.

The appellant insurance company (in MACA No.953 of 2007) is directed to deposit the modified compensation amount of Rs, 5,00,000/- along with interest @6% per annum from the date of filling of claim application with the learned Tribunal within six weeks from today. On deposit of the amount, the same shall be disbursed to the claimants proportionately as per the direction of the learned tribunal given in the impugned award."

3. At the very outset, it is needless to state that the High Court while reducing the quantum of compensation as well as the rate of interest failed to assign any reason. The impugned order of the High Court being a non-speaking order calls for interference in these appeals.

4. As stated by us, the appellants, namely, the claimants alone have come forward with these appeals. Therefore, the only question to be examined is as to what is the multiplier to be applied, which ground was though raised before the High Court, we find that the High Court has not ventured to answer the said question. This question has time and again been considered by this Court. In a recent decision of this Court, namely, *Santosh Devi v. National Insurance Company Ltd. & Ors.* - 2012 (6) SCC 421-to which one of us (Hon. G.S. Singhvi. J.) was a party, after referring to the decision in *Sarla Verma & Ors. v. Delhi Transport Corporation & Anr.* - 2009 (6) SCC 121 wherein the formula under different headings including the one relating to selection of multiplier was quoted with approval. The said formula has been set out in *Sarla Verma* (supra) in para 42 which reads as under:-

"42. We therefore hold that the multiplier to be used should be as mentioned in Column (4) of the table above (prepared by applying Susamma Thomas, Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years."

5. The said part of the formula was applied in the said reported decision *Santosh Devi v. National Insurance Company Ltd. & Ors.*(supra) referred to above while working out the compensation payable to the claimants therein. We,

- A therefore, follow the above referred to decisions and when the said formula is applied since the deceased was stated to be 35 years old at the time of his death, the multiplier would be 16 which has to be applied for calculating the compensation. The Tribunal after examining the materials before it, found that
- B after deducting 1/3rd of personal expenses, the monthly income of the deceased was Rs.7,000/- and the net contribution to the family was ascertained at Rs. 84,000/- per annum. Applying the multiplier of 16, the compensation works out to Rs. 13,44,000/- . Therefore, while setting aside the order of the High Court
- C insofar as it reduced the quantum of compensation, we modify the compensation payable to the appellants in a sum of Rs. 13,44,000/- [84,000/- x 16]. The said sum of Rs. 13,44,000/- should carry interest at the rate of 7% per annum from the date of application till the date of realization.
- D 6. The first respondent is, therefore, directed to pay to the appellants the total amount of compensation in the sum of Rs. 13,44,000/- after giving credit to whatever payment already made by calculating the rate of interest from the date of application till realization. Such payment should be made in the
- E proportion as set out by the Tribunal in the last para of its order dated 10.07.2007. With the above modification in the quantum of compensation and the rate of interest payable right from the date of application, the compensation shall be made within a period of three months from the date of this order. The appeals
- F stand allowed as above.

B.B.B.

Appeals allowed.