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BUDHWANTI @ BUDHO RANI

v.

NIDHAN SINGH @ KAPOOR & ORS.

(Civil Appeal No. 4956 of 2009 etc.)

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JULY 31, 2009

[S.B. SINHA AND CYRIAC JOSEPH, JJ.]

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Motor Vehicles Act, 1988 – s.166 – Motor accident – Resulting in one death, injuries to one and permanent disability of one – Claim petitions – Grant of compensation by Tribunal – Compensation amount enhanced by High Court – On appeal, held: Order of compensation as regards the deceased sufficient and hence does not call for interference – Compensation to the claimants on account of injuries and permanent disability determined without discussing materials on record, without analysing evidence and without assigning sufficient and cogent reasons – Hence, matter remitted to High Court.

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In a motor accident, one person died and his wife and mother sustained injuries. Three petitions claiming compensation were filed. Motor Accident Claim Tribunal granted compensation for a sum of Rs.4,11,000/- to the appellant-wife on account of death of her husband, by assessing the income of the deceased at Rs.4500/- p.m. and deducting 1/3rd therefrom. Wife of the deceased was further awarded sum of Rs.35,000/- for her own injuries. Mother of the deceased was awarded Rs. 85,000/- for her permanent disability. Appellants filed three separate appeals. High Court enhanced the compensation in respect of the death of the deceased as also for the injuries suffered by the appellants viz. his wife and mother. Hence the present appeals.

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Allowing the Civil Appeal No. 4956 of 2009 and partly

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allowing Civil Appeal No.4958 of 2009 and remitting the matters to High Court, the Court

HELD: 1.1. The High Court while maintaining the quantum of income of the deceased at Rs.4500 per month, applied the multiplier of 15. The High Court proceeded to apply the multiplicand and the multiplier with reference to the Second Schedule appended to the Motor Vehicles Act, 1988. The Tribunal and the High Court, however, failed to take into consideration that the multiplier specified in the Second Schedule appended to the Act may not have any co-relationship with computation of the quantum of compensation on an application filed u/s. 166 thereof. [Para 13] [773-E-G]

1.2. The deceased apart from his mother and wife had three children, who were minors at the material time. There is no reason to interfere with the judgment of the High Court as regards compensation paid owing to the death of the deceased as the amount of compensation paid was sufficient having regard to the findings of fact arrived at by the Tribunal as also the High Court. [Para 13] [773-G-H; 774-A-B]

2.1. So far as that part of the appeal preferred by the wife of the deceased as regards compensation paid to her for her injuries and the appeal preferred by the mother of the deceased are concerned, neither the Tribunal nor the High Court considered the evidences of the witnesses examined on behalf of the claimants. [Para 14] [774-B-C]

2.2. Why the amount claimed by the claimants towards expenses for obtaining medical treatment had been rejected has not been stated. On what basis the compensation on other heads, viz., pain and suffering expenses, special diet expenses, expenses on transportation, expenses on attendant, compensation for

A **disfigurement and social discomfort, etc. have been granted is not known. Figures have been arrived at without discussing the materials on records, without analyzing the evidences and without assigning sufficient and cogent reasons therefore. Interest of justice shall be**
B **met if the claim petitions filed by the wife and mother of the deceased with regard to the amount of compensation for their personal injuries are remitted to the High Court for consideration of the matters afresh. [Para 15 and 16] [774-D-G]**

C **CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4956 of 2009.**

From the Judgment & Order dated 17.10.2006 of the High Court of Punjab & Haryana at Chandigarh in FAO No. 2051 of
D 2003.

Sarvesh Bisaria, S. Usha Reddy for the Appellant.

A.K. De, V.P. Tripathi, Pabitra Kumar Biswal, Ashok K. Mahajan, Anil Nag for the Respondents.

E The Judgment of the Court was delivered by

S.B. SINHA, J. 1. Leave granted.

2. Khairati Lal (deceased) and the appellants herein were
F residents of a village known as Khamano Mandi. On or about 11.03.1998, at 8 a.m., they were proceeding to another village on a scooter. Kanwar Ram and Ramesh Kumar were following them on another scooter. One Trala (a goods carrier) struck the scooter of Khairati Lal near a village known as Pahar Kalan.

G The said vehicle was being driven by Shri Nidhan Singh. As a result of the said accident, the appellants herein as also Khairati Lal fell down on the road. Whereas Khairati Lal and the appellant Sheela Rani, wife of the deceased suffered head injuries, left leg of the appellant Budhwanti was crushed under
H the wheels of the vehicle. They were taken to the A.P.Jain

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Hospital, Patiala for treatment. Khairati Lal succumbed to his injuries in the hospital. A

3. Contending that the said accident had taken place owing to rash and negligent driving of Nidhan Singh, three claim applications were filed before the Motor Accident Claim Tribunal, Patiala. B

One of the contentions raised by the respondent No. 3 – Insurance Company was that neither Khairati Lal nor respondent No. 1 Nidhan Singh was holding any valid driving licence. C

4. The learned Tribunal, having regard to the rival pleadings of the parties, framed the following issues:

"1. Whether Sheela Rani received injuries due to rash and negligent driving of Trala No. HR 38 6785 being driven by Nidhan Singh respondent No. 1? If so its effect? D

2. Whether Budhwanti also received injuries due to rash and negligent driving of Trala No. HR 38 6785 being driven by Nidhan Singh respondent No. 1? If so its effect? E

3. Whether Khairati Lal died due to rash and negligent driving of Trala No. HR 38 6785 being driven by Nidhan Singh respondent No. 1? If so its effect?

3A. Whether the claimants are entitled to any compensation? If so to what amount and from whom? F

4. Whether Nidhan Singh respondent No. 1 was not having valid driving licence at the time of accident?

5. Whether this claim petition is bad for non-joinder of necessary parties?" G

5. The learned Tribunal on the basis of the materials brought on record held issue Nos. 1 to 3 in favour of the claimants opining that Sheela Rani and Budhwanti Devi , H

A appellants herein had sustained injuries owing to rash and negligent driving of the respondent No. 1 Nidhan Singh and Khairati Lal died for the self-same reasons. Issue No. 4 was also decided in favour of the claimants – appellants. Issue No. 5, however, was not pressed.

B 6. Whereas the appellant Sheela Rani was granted compensation for a sum of Rs. 4,11,000/- on account of death of Khairati Lal, she was awarded a sum of Rs. 35,000/- in respect of her own injuries. While determining the amount of compensation of Rs. 4,11,000/-, the learned Tribunal assessed the income of the deceased at Rs. 4500/- per month and one C –third therefrom was deducted to arrive at the aforesaid amount. The learned Tribunal awarded a sum of Rs. 85,000/- in favour of the appellant Budhwanti on account of permanent disability suffered by her including disfigurement in the said D accident.

7. Aggrieved by and dissatisfied with the said award, appellants preferred three separate appeals before the High Court inter alia contending that the income of Khairati Lal E should have been calculated at Rs. 8000/- to Rs. 10,000/- per month and not at Rs. 4,500/- by the Tribunal.

8. So far as the injuries suffered by the appellant Sheela Rani are concerned, it was contended that she had spent an amount of Rs. 1.50 lakh on her medical treatment and as F amount should have been awarded in her favour. Apart therefrom enhancement of the amount of compensation on other heads was also claimed.

9. Budhwanti, whose leg was amputated, also raised a G contention that she had spent a sum of Rs. 2,00,000/- towards medical expenses. Besides the same, she had also spent towards hire of services of an attendant and would furthermore be required to incur expenditure of Rs. 500/- to Rs. 600/- per month therefor.

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10. The High Court, by reason of the impugned judgment, enhanced the amount of compensation in respect of death of Khairati Lal to Rs. 5,55,000/- and for injuries suffered by the appellants Sheela Rani and Budhwanti to Rs. 50,000/- and Rs. 1,70,000/- respectively.

11. Aggrieved thereby, these appeals have been filed by the appellants herein.

12. It is unfortunate, we must note at the outset, that the High Court did not assign sufficient or cogent reasons in support of its judgment.

13. Appellants contend that Khairati Lal was aged about 35 years at the time of his death. He was running a general merchant shop. He is said to have been selling shoes also. Although in support of the said plea, income tax receipts were filed, the learned Tribunal did not place any reliance thereupon. It was opined that the income of Khairati Lal was Rs. 4500/- per month. The learned Tribunal, furthermore, held that the age of the deceased in view of the post mortem report (Exhibit PW.3/A) was 43 years. In the aforementioned premise, multiplier of 11 was applied.

The High Court, however, while maintaining the quantum of income of Khairati Lal at Rs. 4500/- per month, applied the multiplier of 15. The High Court proceeded to apply the multiplicand and the multiplier with reference to the Second Schedule appended to the Motor Vehicles Act, 1988 (for short "the Act"). The Tribunal and the High Court, however, failed to take into consideration that the multiplier specified in the Second Schedule appended to the Act may not have any co-relationship with computation of the quantum of compensation on an application filed under Section 166 thereof.

It, however, appears that the deceased Khairati Lal apart from his mother Budhwanti and wife Sheela Rani had three children, who were minors at the material time.

A Respondents have not preferred any appeal questioning the correctness of the amount awarded by the High Court. We, therefore, do not find any reason to interfere with the judgment of the High Court as regards compensation paid owing to the death of the deceased Khairati Lal as we are of the opinion
B that the amount of compensation paid was sufficient having regard to the findings of fact arrived at by the learned Tribunal as also the High Court.

C 14. So far as that part of the appeal preferred by the appellant Sheela Rani as regards compensation paid to her for her injuries and the appeal preferred by the appellant Budhwanti are concerned, neither the Tribunal nor the High Court considered the evidences of the witnesses examined on behalf of the claimants.

D 15. Why the amount claimed by the claimants towards expenses for obtaining medical treatment had been rejected has not been stated. On what basis the compensation on other heads, viz., pain and suffering expenses, special diet expenses, expenses on transportation, expenses on attendant,
E compensation for disfigurement and social discomfort, etc. have been granted is not known. Figures have been arrived at without discussing the materials on records, without analyzing the evidences and without assigning sufficient and cogent reasons therefor.

F 16. We, therefore, are of the opinion that interest of justice shall be met if the claim petitions filed by Sheela Rani and Budhwanti with regard to the amount of compensation for their personal injuries are remitted to the High Court for consideration of the matters afresh. We, however, make it clear
G that as the respondents herein did not prefer any appeal, the amount of compensation already granted by the High Court shall not be interfered with and the only question which would be considered by the High Court is as to whether the claimants for sustaining injuries on their persons, are entitled to a higher
H amount of compensation on the basis of the materials brought

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on record by the parties.

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17. That part of the Civil Appeal arising out of SLP (C) No. 4315 of 2007 preferred by Sheela Rani as regards compensation awarded owing to the death of her husband is dismissed; the other part relating to compensation paid to her for her injuries is allowed and Civil Appeal arising out of SLP (C) No. 4130 of 2007 preferred by Budhwanti is allowed with the aforementioned observations and directions. We would, however, request the High Court to consider the desirability of disposing the matter at an early date and preferably within three months from the date of receipt of a copy of the judgment.

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Appeals disposed of.