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ANJANI SINGH & ORS.

v.

SALAUDDIN & ORS.

(Civil Appeal No. 4647 of 2009)

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APRIL 25, 2014

[GYAN SUDHA MISRA AND V. GOPALA GOWDA, JJ.]

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MOTOR VEHICLES ACT, 1988: s.166 – Fatal accident – Compensation – Determination of – Victim-deceased aged

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35 years – Tribunal determined dependency of claimants-appellants as RS. 31,000/- p.a. and applied the multiplier of 8 since the deceased died at the age of 35 and the age of superannuation in the Air Force was 45-50 years – High Court held that the assessment of monthly income based on the salary statement by the Tribunal as RS.4030/- was correct, however, the finding of the Tribunal leading to deduction of one-third amount towards personal expenses was erroneous and deducted only one-fourth of the compensation towards personal expenses and applied multiplier of 10 – Also

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*awarded RS. 2,500/- towards funeral expenses and 5,000 towards loss of consortium for the widow of the deceased – Claimant filed SLP – In view of divergence of view in several decisions of Supreme Court, matter was placed before a larger Bench which answered the points of reference in favour of the appellants, in the decision reported in ***Reshma Kumari***

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*– Held: In view of the decision in ***Reshma Kumari**, the appellants were held entitled to future prospects of income – Taking monthly salary as RS. 4030/-, amount towards future prospects determined at 50% with monthly income of RS. 4030/- came to 2015/-, making the total monthly income of*

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*6045/- – Out of RS. 6045/-, one fourth i.e. 1511/- deducted towards personal expenses of the deceased, as per the decision in ****Sarla Verma** case, as the deceased had five dependents – The resultant figure came to RS. 4534/- p.m.*

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which after multiplying by 12 came to RS. 54,408/- as annual income – Applying multiplier of 16, the amount under head of loss of dependency came to RS. 8,70,528/- – Further, RS. 25,000/- awarded towards funeral expenses, 1,00,000/- awarded towards loss of love and affection of the children and the parents, and further, RS. 1,00,000/- awarded towards loss of consortium by the widow of the deceased – Also, a sum of RS. 25,000/- awarded for the cost of litigation – Therefore, the total amount came to RS. 11,20,528/- – Appellants having already received RS. 5,05,519/- are entitled to the remaining amount, i.e. RS. 6,15,009/- – This amount shall bear interest at the rate of 9% per annum from the date of application till the date of payment.

The husband of the claimant-appellant no. 1 aged 35 years died in a motor accident. The Tribunal held that the victim-deceased died due to rash and negligent driving of respondent no. 1 and awarded Rs. 2.49 lacs as compensation. The Tribunal determined the dependency of appellants as RS. 31,000/- per annum and applied the multiplier of 8 since the deceased died at the age of 35 and the age of superannuation in the Air Force was 45-50 years. Aggrieved, the claimant filed an appeal seeking enhancement of the compensation. The High Court allowed the appeal and held that the assessment of monthly income based on the salary statement by the Tribunal as RS. 4030/- was correct, however, the finding of the Tribunal leading to deduction of one-third amount towards personal expenses was erroneous. This finding of the Tribunal was set aside and only one-fourth of the compensation was deducted towards personal expenses. The total dependency amount came up to RS. 3,62,700/- by applying a multiplier of 10. RS. 2,500/- was awarded towards funeral expenses and RS. 5,000 towards loss of consortium for the widow of the deceased. In total, a compensation of RS. 3,70,200/- was awarded. Still aggrieved, the claimant filed special leave

A petition. This Court granted leave, and referred the issue to a larger bench. This was in view of the divergence of opinion across several judgments of the Supreme Court, and this aspect of the matter having not been considered in the earlier decisions. The matter was placed before a larger Bench which answered the points of reference in favour of the appellants, in the decision reported in **Reshma Kumari*.

Allowing the appeal, the Court

C HELD: In view of the decision in **Reshma Kumari*, the appellants were held entitled to future prospects of income considered at the time of determination of compensation both by the Tribunal and High Court. The monthly salary of the deceased was taken as RS. 4030/- by the Tribunal. The High Court had taken 50% of the monthly salary to arrive at the multiplicand. Therefore, towards future prospects at the rate of 50% with monthly income of RS. 4030/- it would come to RS. 2015/-, making the total monthly income to RS. 6045/-. Out of 6045/-, one fourth i.e. 1511/- is deducted towards personal expenses of the deceased, as per the decision of this Court in ***Sarla Verma* case, as the deceased had five dependents. Thus, the resultant figure would be RS. 4534/- per month which after multiplying by 12 would come to RS. 54,408/- as annual income. Applying the multiplier of 16, the amount the head of loss of dependency would come to RS. 8,70,528/-. Further a sum of 25,000/- is awarded towards funeral expenses; , a sum of RS. 1,00,000/- is awarded towards loss of love and affection of the children and the parents, and further, a sum of RS. 1,00,000/- is awarded towards loss of consortium by the widow of the deceased. Also, a sum of RS. 25,000/- is awarded for the cost of litigation. Therefore, the amount would come to RS. 11,20,528/-. Further, the Tribunal has passed the award in the year 2000 and the appellants have received RS.

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3,25,298/- on 22.7.2000 and RS. 1,80,221/- on 9.3.2007. In total they have received RS. 5,05,519/-. Now, they are entitled to the remaining amount, i.e.RS. 6,15,009/-. This amount shall bear interest at the rate of 9% per annum from the date of application till the date of payment. Out of this amount, 50% shall be deposited in any nationalized bank of appellants' choice and the remaining amount to be paid to them through demand draft within six weeks. [Para 4] [853-D-H; 854-A-D]

**Reshma Kumari & Ors. v. Madan Mohan & Anr. (2013) 9 SCC 65: 2013 (2) SCR 706; **Salra Verma & Ors. V. Delhi Transoport Corporation & Anr. (2009) 6 SCC 121: 2009 (5) SCR 1098; Rajesh & Ors. v. Rajbir Singh & Ors. (2013) 9 SCC 54; Balram Prasad v. Kunal Saha & Ors. (2014) 1 SCC 384; U.P. State Road Transport Corporation & Ors. v. Trilok Chandra & Ors. (1996) 4 SCC 362: 1996 (2) Suppl. SCR 443; Municipal Corporation of Delhi, Delhi v. Uphaar Tragedy Victims Association & Ors. (2011) 14 SCC 481: 2011 (16) SCR 1 – relied on.*

Case Law Reference:

1996 (2) Suppl. SCR 443	Relied on	Para 4'
2013 (2) SCR 706	Relied on	Para 4
2009 (5) SCR 1098	Relied on	Para 4
(2013) 9 SCC 54	Relied on	Para 4
(2014) 1 SCC 384	Relied on	Para 4
2011 (16) SCR 1	Relied on	Para 4

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4647 of 2009.

From the Judgment & Order dated 29.11.2006 of the High Court of Punjab & Haryana at Chandigarh in FAO No. 236 of 2001.

A Ashok K. Mahajan for the Appellants.

Ravi Bakshi, Debasis Misra for the Respondents.

The Judgment of the Court was delivered by

B **V. GOPALA GOWDA, J.** 1. This civil appeal is directed against the judgment and award dated 29th November, 2006 passed by the High Court of Punjab and Haryana at Chandigarh in FAO No.236 of 2001, wherein the High Court allowed the said appeal and enhanced the compensation by RS. 1,20,600/

C - and awarded interest at the rate of 6% per annum. The same is questioned by the appellants-claimants, on the ground that just and reasonable compensation was not awarded keeping in view the future prospects of income and further, correct multiplier method was not applied taking into consideration the

D age of the deceased at the time of death. Lastly, compensation under the conventional heads towards loss of love and affection towards the widow, children and parents of the deceased was also not awarded. Hence, this appeal was filed by the appellants seeking further enhancement of compensation.

E 2. The facts in brief are stated hereunder:

On 17.09.1997 Sergeant Dalbir Singh, husband of appellant No. 1, father of appellant nos. 2 to 4 and son of appellant no. 5 died in a road accident. The accident took place

F at 10.15 p.m. on National Highway No. 28 between Air Force Station, Gorakhpur and Nandanagar Police Station, when the deceased was going on his bicycle and was hit by truck No. UP-41A/1901 coming from Gorakhpur side. The said truck was driven by Respondent No.1, owned by Respondent No.2 and

G insured by Respondent No.3, United India Insurance Company.

On 24.11.1997, the appellant/claimants filed the Claim Petition No.217 of 1997 before the Motor Accident Claims Tribunal, Faridabad (in short "the Tribunal") and claimed for RS. 15,00,000/- as compensation for loss to estate of the

H deceased. The Tribunal held that, the deceased Sergeant

Dalbir Singh died because of the accident which took place due to rash and negligent driving of respondent No.1 and awarded the appellants RS. 2,49,600/- as compensation. The Tribunal determined the dependency of appellants as RS. 31,000/- per annum and applied the multiplier of 8 since the deceased suffered death at the age of 35 and the age of superannuation in the Air Force is 45-50 years.

3. Aggrieved by the judgment and order passed by the Tribunal, the appellants-claimants filed First Appeal No. 234 of 2011 before the High Court of Punjab and Haryana at Chandigarh on 12.7.2000. The High Court allowed the appeal and held that assessment of monthly income by the Tribunal as 4030/- is correct based on the examination of the salary certificate. The finding of the Tribunal leading to deduction of 1/3rd amount towards personal expenses was held to be erroneous. Hence, this finding was set aside and only 1/4th of the compensation was deducted towards personal expenses. The total dependency amount came up to RS. 3,62,700/- by applying a multiplier of 10 and RS. 2,500/- was awarded towards funeral expenses and RS. 5,000 towards loss of consortium for the widow of the deceased. In total, a compensation of RS. 3,70,200/- was awarded. Thus, the compensation was enhanced by RS. 1,20,600/-, which carried an interest of 6% per annum from the date of filing of the claim till the date of payment.

4. This Court, vide judgment dated 23rd July, 2009, granted leave, and referred the issue to a larger bench. This was in view of the divergence of opinion across judgments of this Court, and this aspect of the matter having not been considered in the earlier decisions, particularly in the absence of any clarification from Parliament despite recommendations made by this Court in *U.P. State Road Transport Corporation & Ors. v. Trilok Chandra & Ors.*¹, it was further directed to the

1. (1996) 4 SCC 362.

A Registry to place the matter before the Hon'ble Chief Justice of India for an appropriate order to constitute a larger Bench to answer the points referred to it. Pursuant to the said order, the matter was placed before a larger Bench which answered the points of reference in favour of the appellants, in the decision reported in *Reshma Kumari & Ors. v. Madan Mohan & Anr*².
 B The points answered read as under:

"40. In what we have discussed above, we sum up our conclusions as follows:

C (i) In the applications for compensation made under Section 166 of the 1988 Act in death cases where the age of the deceased is 15 years and above, the Claims Tribunals shall select the multiplier as indicated in Column (4) of the table prepared in *Sarla Verma* read with para
 D 42 of that judgment.

(ii) In cases where the age of the deceased is upto 15 years, irrespective of the Section 166 or Section 163A under which the claim for compensation has been made, multiplier of 15 and the assessment as indicated in the
 E Second Schedule subject to correction as pointed out in Column (6) of the table in *Sarla Verma* should be followed.

(iii) As a result of the above, while considering the claim applications made under Section 166 in death cases where the age of the deceased is above 15 years, there is no necessity for the Claims Tribunals to seek guidance or for placing reliance on the Second Schedule in the 1988 Act.
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(iv) The Claims Tribunals shall follow the steps and guidelines stated in para 19 of *Sarla Verma* for determination of compensation in cases of death.
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(v) While making addition to income for future prospects,

H ². (2013) 9 SCC 65.

the Tribunals shall follow paragraph 24 of the judgment in *Sarla Verma*. A

(vi) Insofar as deduction for personal and living expenses is concerned, it is directed that the Tribunals shall ordinarily follow the standards prescribed in paragraphs 30, 31 and 32 of the judgment in *Sarla Verma* subject to the observations made by us in para 38 above. B

(vii) The above propositions mutatis mutandis shall apply to all pending matters where above aspects are under consideration." C

In view of the above decision of the larger Bench of this Court, the appellants were held entitled to future prospects of income considered at the time of determination of compensation both by the Tribunal and High Court. The monthly salary of the deceased was taken as RS. 4030/- by the Tribunal. The High Court, in view of the answer to the points raised by this Court and keeping in view the age of the deceased which was 35 years, has taken 50% of the monthly salary to arrive at the multiplicand. Therefore, towards future prospects at the rate of 50% with monthly income of RS. 4030/- it would come to RS. 2015/-, making the total monthly income to RS. 6045/-. Out of RS. 6045/-, one fourth i.e. RS. 1511/- shall be deducted towards personal expenses of the deceased, as per the decision of this Court in *Sarla Verma & Ors. v. Delhi Transport Corporation & Anr.*³ case, as the deceased has five dependents, thus the resultant figure would be RS. 4534/- per month which after multiplying by 12 would come to RS. 54,408/- as annual income. The multiplier would be 16 as per the above case which would come to 8,70,528/- under the head of loss of dependency. We further award towards funeral expenses, a sum of RS. 25,000/-, towards loss of love and affection of the children and the parents, a sum of RS. 1,00,000/- and further, a sum of RS. 1,00,000/- towards loss of consortium by the widow of the D E F G

3. (2009) 6 SCC 121. H

- A deceased, as per the legal principle laid down by this Court in the three judge bench decision in *Rajesh & Ors. v. Rajbir Singh & Ors*⁴. We also award a sum of RS. 25,000/- for the cost of litigation as per the principle laid down by this Court in *Balram Prasad v. Kunal Saha & Ors*⁵. Therefore, the amount would
- B come to RS. 11,20,528/-. Further, the Tribunal has passed the award in the year 2000 and the appellants have received RS. 3,25,298/- on 22.7.2000 and RS. 1,80,221/- on 9.3.2007. In total they have received RS. 5,05,519/-. Now, they are entitled to the remaining amount, i.e. RS. 6,15,009/-. This amount shall bear
- C interest at the rate of 9% per annum following the decision of this Court in *Municipal Corporation of Delhi, Delhi v. Uphaar Tragedy Victims Association & Ors*⁶. from the date of application till the date of payment. Out of this amount, 50% shall be deposited in any nationalized bank of Appellants' choice
- D and the remaining amount to be paid to them through demand draft within six weeks from the date of receipt of a copy of this judgment. The appeal is accordingly allowed. There shall be no order as to costs.

Devika Gujral

Appeal allowed.