

C.A.No. 2253 OF 1997  
.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp  
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ITEM NO.102 COURT NO. 2 SECTION XV

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

CIVIL APPEAL NO.2253 OF 1997@@  
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Gyanchand Jain & Anr. ... Appellant (s)

Vs.

Parmanand & Ors. ... Respondent (s)

( With appln. for urging addl. grounds and for submitting additional documents )

Date: 03/12/2002 This/These matter(s) was/were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.N. KHARE  
HON'BLE MR. JUSTICE ASHOK BHAN

For appellant (s) Mr. M.L. Lahoty,Adv.  
Mr. Sushil Kumar Jain,Adv.  
Mr. Paban K. Sharma,Adv.  
Mr. P. Dadhich,Adv.  
Ms. Anjali Doshi,Adv.  
Ms. Ruchi Kohli,Adv.

For respondent (s) Mr. Jos Chiramel,Adv. for  
No.4 Mr. SB Upadhyay,Adv.

UPON hearing counsel, the Court made the following  
O R D E R

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Mr. M.L. Lahoty, learned counsel, started his arguments at 12.45 p.m. and concluded at 2.55 p.m. Thereafter Mr. Jos Chiramel, learned counsel, started his arguments and concluded at 3.15 p.m. Hearing concluded.

The appeal is partly allowed. No order as to costs.

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(Neelam Kawatra) (S. Krishnan)  
A.R.-cum-P.S. Court Master

Signed order is placed on the file.

Gyanchand Jain & Another

..Appellants

Versus

Parmanand and Others

..Respondents

O R D E R

Parveen Kumar Kasliwal, son of the appellants met with an accident on 19th May, 1987. He was going on bicycle and accident took place with a tractor driven by respondent No.1. He sustained injuries and died on the spot. He was 26 years of age and unmarried. He was in service of the Instrumentation Limited, Kota, a Government of India Undertaking and getting a salary of Rs.1,638/- p.m.

Appellants being father and mother, aged 55 and 48 respectively, filed claim petition before the Motor Accident Claim Tribunal (hereinafter referred to as "the Tribunal") claiming a sum of Rs.14,50,000/- as compensation. Parties led their evidence. Tribunal after appreciating the evidence came to the conclusion that Parveen Kumar died on account of rash and negligent driving of respondent No.1. After deducting 1/3rd towards personal expenses from the income of the deceased, rupees one thousand per month was determined as the loss of dependency. Taking into consideration the age of the claimants-appellants multiplier of 12 was adopted. The total loss of dependency was determined as Rs.1,44,000 and after adding Rs.3,000/- each towards loss of love and affection and funeral charges, the total compensation was determined at Rs.1,50,000/-. After deducting 20% on account of lump sum payment the total compensation payable was determined at Rs.1,20,000/-.

Aggrieved against the award of the Tribunal the insurance company, respondent No.4 as well as the claimants-appellants filed appeals. Plea of the insurer was that the compensation determined was on the higher side whereas the plea of the claimants-appellants was that the compensation awarded was on the lower side. The High Court dismissed the appeal filed by the insurer. The appeal filed by the claimants was partly accepted. It was held that deduction of 20% from the total compensation was not permissible and, therefore, set aside the order of the Tribunal to that extent and determined the payable compensation at Rs.1,50,000/- with interest @ 12% .

Claimants, being aggrieved, filed the special leave petition in which leave was granted. Learned counsel appearing for the appellants argued that in the present case, keeping in view the age of the deceased, multiplier of 18 ought to have been applied. We do not find any merit in this submission. It is not disputed that maximum multiplier that could be applied is 18. Since the deceased was unmarried and the age of the mother was 48 years and that of the father was 55 years, the total loss of dependency has to be determined keeping in view the age of the parents. It is well established that age of claimants when they happen to be parents in the case of a deceased unmarried child is a relevant factor for determining the multiplier to be adopted. Under such circumstances, the multiplier applied by the Tribunal which was upheld by the High Court is appropriate.

We do find a small infirmity in the order of the Tribunal. The income of the deceased was determined at Rs.1,638/- p.m. The tribunal erred in determining the total loss of dependency at Rs.1,000/- p.m.. The same should have been Rs.1,100/- per month and as only 1/3rd was to be deducted towards the personal expenses of the deceased. In that view of the matter, the loss of dependency is determined at Rs.1,100/- p.m. which comes to Rs.13,200/- per annum. By adopting multiplier of 12 the total loss towards

the loss of dependency comes to Rs.1,58,400/-. By adding Rs.3,000/- towards loss of love and affection and Rs.3,000/- towards funeral expenses the total compensation payable comes to Rs.1,64,400/- which is rounded of Rs.1,65,000/-. The insurance company is directed to deposit the balance amount before the Tribunal, Kota within a period of six weeks from today along with interest at the rate determined by the Tribunal. On deposit of the amount, the claimants would be at liberty to withdraw the same.

Appeal is partly allowed with no order as to costs.

& & & & & & & & J.  
(V.N. Khare)

New Delhi;  
December 3, 2002

& & & & & & & ..J.  
(Ashok Bhan)

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