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C.A.No. 6015 OF 1998

ITEM No.106

Court No.11

SECTION IV

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 6015 OF 1998

SWARAN LATA & ORS.

Appellant (s)

VERSUS

RAM CHET & ORS.

Respondent (s)

(WITH CIVIL APPEAL NO. 6016 OF 1998)

Date : 05/03/2003 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE BRIJESH KUMAR

HON'BLE MR. JUSTICE S.B. SINHA

For Appellant (s) Mr. Manoj Swarup, Adv.  
Mr. Uday Gupta, Adv.

For Respondent (s) Mr. Ramesh Chandra Mishra, Adv.  
Dr. Meera Agarwal, Adv.

Ms. Kirti Renu Misha, Adv.

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

Heard counsel for the parties for 30 minutes.

The appeals are allowed with costs, in terms of the signed order.

Learned counsel appearing for the respondent-Oriental Assurance Company Ltd. informs that all the amount awarded so far has already been deposited. He prays for and is allowed two months' time to deposit the entire balance amount as per this order passed today.

(D.P. WALIA) (VIJAY AGGARWAL)  
COURT MASTER COURT MASTER

(Signed Order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6015 OF 1998

Swaran Lata & Ors..... Appellant (s)

vs.

Ram Chet & Ors.... Respondent (s)

(WITH CIVIL APPEAL NO. 6016 OF 1998)

O R D E R

The above noted two appeals have been preferred separately by the dependent-claimants of the deceased Narinder Kumar and Subhash Aggarwal who died in a motor accident, having taken place on 16.7.1992 while travelling by a maruti van from Jalandhar to Delhi. The accident took place

near Nilokhari with a truck which collided with the van in which the deceased and other members of the family were also travelling. Since both appeals arise out of the same accident and questions raised are also common to both, we have heard the appeals together and they are being disposed of by a common order.

The appellants in the two appeals being the dependents of the deceased persons preferred a claim petition before the Motor Accidents Claims Tribunal, Karnal. The family of Narinder Kumar consisted of his mother, his wife and six children one of whom is a married daughter. The children at the relevant time were aged 4 to 20 years. Subhash Aggarwal, the other deceased, left behind his widow and two children. Parties adduced evidence in support of their cases on consideration whereof the Tribunal came to the conclusion that monthly income of both the victims was Rs.6,000/- per month and on that basis assessed and awarded the compensation as to be indicated hereinafter.

So far as Narinder Kumar is concerned, it has been found that he was being paid a sum of Rs.1,500/- per month out of the income from HUF business. His dependents, after his death, are being paid the same amount of Rs.1,500/- per month. That amount was, therefore, deducted from the amount of total income of Narinder Kumar for the purposes of calculating the amount of dependency. Another amount of Rs.1,500/- was deducted on account of personal expenditure of

the deceased being one-third of the income. Therefore, the dependency amount was arrived at Rs.3,000/- per month, i.e. Rs.36,000/- per annum. The Tribunal applied the multiplier of 9 and awarded an amount of Rs.3,24,000/- with interest at the rate of 12 per cent from the date of the claim till the date of the payment.

So far as Subhash Aggarwal is concerned, in view of the fact coming on the record that his dependents are being paid a sum of Rs.2,000/- per month out of the partnership business, the said amount was deducted from the amount of income for the purposes of arriving at amount of dependency. The income was, thus, reduced to Rs.4,000/-. One-third amount was also deducted out of Rs.4,000/- on account of personal expenditure of Subhash Aggarwal. The annual dependency amount at the rate of Rs.2,700/- per month came to Rs.32,400/-. The multiplier of 10 was applied. Hence, the total amount of compensation of Subhash Aggarwal also was determined at Rs.3,24,000/-. It would be relevant to mention here that the age of Narinder Kumar at the time of an accident was 46 years and that of Subhash Aggarwal it was 42 years. There is no dispute on factual aspects as indicated above.

The claimants preferred an appeal before the High Court. The High Court applied the multiplier of 11 instead of 9 in the case of Narinder Kumar. The amount of income, etc., remained the same. In so far as Subhash Aggarwal is concerned, multiplier of 14 was applied in place of 10 as applied by the Tribunal. But the High Court refused to award interest on the increased amount in consideration of the fact that the matter was decided by the High Court at the threshold and it was not kept pending at all at that stage.

Being aggrieved by the order passed by the High Court in not awarding the interest as well as not applying proper multiplier as provided under the Schedule to the Motor Vehicles Act, the present appeals have been filed by special leave.

Learned counsel for the appellants has first submitted that the amount which has been deducted from the income of the deceased, namely, Narinder Kumar and Subhash Aggarwal, at the rate of Rs.1,500/- and Rs.2,000/- respectively, is not justified. We, however, find no merit in the submission made on that account for the reason that

an amount of Rs.1,500/- per month is being paid to the dependents of Narinder Kumar out of the income of HUF business and, therefore, it is difficult to accept that the said amount is being

g paid as a matter of grace or solace to the dependents of the deceased. There is no dispute that it is income out of HUF business and the said amount is being paid therefrom. Therefore, we find no fault having been committed by the Tribunal or the High Court in not allowing that amount to be taken into account for the purposes of assessing the dependency amount and compensation. Similarly, so far as Subhash Aggarwal is concerned, it is there in the statement of Ms. Indu Aggarwal, wife of Subhash Aggarwal that the business out of which the deceased was earning his income is being continued and it is out of the income of the said business that a sum of Rs.2,000/- is being paid to her. That being the position, in our view, this amount has also been rightly deducted from the total income of Rs.6,000/- per month of Subhash Aggarwal. It has also been sought to be argued that deduction of one-third amount on account of personal expenditure of the

two deceased was not justified. We, however, find no merit in this submission too. Learned counsel for the appellants has referred to a decision of this Court in Hardeo Kaur and Others v s. Rajasthan State Transport Corporation and Anr., 1992 (2) SCC 567. We find that it is not applicable at all since it is on the question of deduction of one-third amount on account of payment being made in a lumpsum, whereas in the case in hand one-third deduction is on account of personal expenditure of the deceased.

In so far as the other contention is concerned about the applicability of the appropriate multiplier as provided under the Schedule to the Motor Vehicles Act, we find that the age of Narinder Kumar being 46 years, multiplier of 13 would be applicable as in the range of the age between 46 to 50 years the multiplier of 13 is provided in the Schedule. The High Court has applied the multiplier of 11 only. In the case of Subhash Aggarwal, we find that his age is 42 years. According to the Schedule, the multiplier as applicable would be 15 which is meant for the victim between 40 to 45 years. The High Court has applied multiplier of 14 but

not 15 which would be applicable as per the Schedule to the Motor Vehicles Act.

Learned counsel for the respondent-Oriental Assurance Company Ltd. submits that it is not always necessary to apply the multiplier as provided in the Schedule and it is possible to vary the multiplier and in support of his contention he has placed reliance on a decision of this Court in United India Insurance Co. Ltd. And Others vs. Patricia Jean Mahajan and Others, 2002 (6) SCC 281, more particularly on the observations made at page 304. We find that the said decision has no application to the facts of the present case. No such circumstance or special reason as existed in that case has been indicated, so as to deviate from the multiplier as provided under the Schedule.

So far as the question of award of interest is concerned, we find that the High Court, though enhanced the amount, refused to award interest stating "since the appeals are being disposed of at motion stage, no interest on the enhanced amount of compensation will be paid to the claimants." We find it to be no good reason to deny the

interest on the enhanced amount. It would be taken that the amount enhanced was liable to be paid to the claimants right from the beginning though enhanced later on appeal. That being the position, it will be logical to award the interest on the increased amount as well. We find that as a result of the order which is being passed today in these appeals, namely, by applying the higher multiplier of 13 and 15 in regard to the claimants of Narinder Kumar and Subhash Aggarwal respectively, the amount of compensation shall be further increased. Interest would also be payable on the said increased amount.

We, therefore, allow the appeals with costs and provide that amount of compensation payable to the appellants-claimants-dependents of Narinder Kumar shall be calculated by applying the multiplier of 13 and that of appellants-claimant-dependents of Subhash Aggarwal by applying multiplier of 15. The interest on the enhanced amount shall be payable with effect from the date of the claim till the date of payment, but at the rate of 9 per cent per annum in view of the prevailing rate of interest.

Learned counsel appearing for the respondent-Oriental Assurance Company Ltd. informs that all the amount awarded so far has already been deposited. He prays for and is allowed two months ' time to deposit the entire balance amount as per this order passed today.

.....J(BRIJESH KUMAR)

.....J

(S.B. SINHA)

New Delhi;

March 5, 2003.