Before S. S. Sandhawalia, C.J. and Surinder Singh, J.

ASHA RANI and other—*Petitioners.*

versus

UNION OF INDIA,—*Respondent.*

Letters Patent Appeal No. 137 *of* 1979.

February 2, 1982.

Motor Vehicles Act (IV of 1939)—Section 110-B—Death in a motor accident—Determination of amount of compensation—Age of the deceased—Whether a conclusive or paramount consideration in the application of criteria for such determination—Age factor—If and when relevant.

Held, that the law provides primarily for the pecuniary loss caused to the dependents and solatium was alien to the concept of compensation in this context. The whole object, therefore, is to give the dependents an equivalent financial support for the remaining years which the deceased was providing to them at the time of the accident taking into consideration various imponderables in an individual case but not matters which were totally conjectural and hypothetical. For instance, the slippery factor of inflation matched by rising 'Bank interest rates' has to be ruled out of ken. The primary purpose herein is to give the dependents a consolidated fund of money which would continue to yield annual financial support which the deceased was providing to his dependents. Once that basic object is achieved the age of the deceased cease to have relevance except in one instance. This is where the remaining life expectancy is lesser than the multiplier sought to be applied. This may be highlighted by an extreme example. In a case where a deceased would be 69 years of age and the life expectancy is pegged at 70 years than obviously a multiplier above one would be uncalled for. Similarly where the age of the victim of the accident is 60 years the maximum multiplier cannot go beyond 10 subject, of course, to reduction in view of any other factors. In cases where this limitation does not come in the age of the deceased person ceases to be of any relevance. It is not that the compensation for a man dying at 20 (all other things being equal) has necessarily to be double or higher then the one killed at the age of 40. This is so because the consolidated sum of money given as compensation to the dependents is an impersonal fund of money which will continue to yield an income equivalent to the annual financial dependency thereafter, irrespective of the age of the deceased. Indeed, the assumption is

that this amount would guarantee the availability of an equivalent annual financial income for the rest of the time thereafter. The multiplier system has been accepted and adopted primarily because it excluded the freakish consideration of the age of the deceased on which the earlier method of multiplying the annual dependency with the remaining years of life expectancy hinged. That formula worked to such anomalies that if the deceased person were to be killed at 18 then on the norm of 70 years life expectancy the quantum of compensation was to be arrived at by multiplying the annual dependency with so high a figure as 52. This obviously leads to great distortion. In order to apply a corrective to the aforesaid distortion, this method had to be rejected and the multiplier concept substituted in its place. To again introduce the consideration of age (but for the exception noticed above) in the multiplier system would be reinducting the same fallacy therein which was sought ti be rectified by rejecting the earlier method. Thus, the age of deceased person is neither a conclusive nor a paramount factor in the determination of the compensation except in those cases where the remaining years of life expectancy are less than the multiplier which is sought to be applied. (Paras 12, 14 & 17).

Hoshiarpur National Transporters (Pvt.) Ltd. *vs.* The Motor Accidents Claims Tribunal, Hoshiarpur and others, 1979 P.L.R. 618. *Overruled.*

Letters Patent Appeal under clause X of the letters patent against the orders of Hon'ble Mr. Justice S. P. Goyal, dated 2nd February, 1979, in F.A.O. No. 94 of 1968 reducing the amount of damages from Rs. 18,000 *to* 12,000.

Roshan Lal Sharma, Advocate, *for the Petitioner.*

M. J. S. Sethi, Additional A. G. with H. S. Kathuria, Advocate, *for the Respondents.*

JUDGMENT

S. S. Sandhawalia, C.J.

1. Whether the age of the deceased is a conclusive or in any case a paramount consideration for the determination of compensation for his dependents under section 110-B of the Motor Vehicles Act has come to be the spinal issue in this appeal under clause 10 of the Letters Patent.

2. On the 13th of September, 1966, at about 7.30 P.M., Harbans Lal deceased, an employee of the Amritsar Sugar and Oil Mills Ltd., Chheharta, was fatally run over by a military jeep whilst proceeding from Amritsar City towards Khalsa College. His widow and minor children preferred a claim petition alleging that the victim of the accident was killed because of the rash and negligent driving of the jeep. The claim was opposed by the Union of India but the Tribunal by its award dated the 15th of May, 1968, decided all the issues in favour of the claimants. It was held that the dependants have been deprived of financial support to the tune of Rs 100 per mensem and consequently the annual loss was assessed at Rs. 1,200. At the time of the accident, Harbans Lal deceased was of 45 years of age and assessing his life expectancy as 60 years the Tribunal allowed the loss for 15 years and awarded Rs. 18,000 to the claimants.

3. The Union of India appealed against the above award. The learned Single Judge, affirmed the findings of the Tribunal on merits. However, with regard to the amount of compensation be referred to the Full Bench judgment in *Lachhman Singh and others* v. *Gurmit Kaur and others,* (1) for evolving a suitable multiplier and held as follows :—

> " .... The person involved in the accident was an unskilled labourer aged 45 years. Keeping in view all these imponderable circumstances, I feel a multiplier of 10 would be suitable to arrive at the pecuniary loss caused to the dependents. Thus, the calculated amount of pecuniary loss is assessed at Rs. 12,000.
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> Consequently, this appeal is allowed to the extent mentioned above and the amount of damages awarded to the respondents is reduced from Rs. 18,000 to Rs. 12,000. No costs."

4. Learned counsel for the appellants in assailing the aforesaid view had contended that the suitable and normal multiplier in the present case was 16 and there was no justification or exceptional circumstance for scaling down the multiplier to as low a level as that of 10. It was submitted that the normal life expectancy in

(1) AIR 1979 Pb. & H. 50.

this region has been authoritatively held to be 70, and the age of the deceased which was 45 years would be of little or no relevance for the assessment of compensation.

5. The vehement stand of the respondent-Union of India advocated by their learned counsel Mr. Mohinderjit Singh Sethi, however, was that the deceased being 45 years of age this was a conclusive or in any case the paramount consideration for fixing the multiplier and the learned Single Julge was right in taking this factor into consideration for determining the same at a level of 10 only. It was forcefully contended by Mr. Sethi that a higher multiplier, if justifiable, could only arise in cases where the deceased was either in his teens or twenties. Counsel relied on *M/s Hoshiarpur National Transporters Pvt. Ltd.* v. *The Motor Accidents Claims Tribunal, Hoshiarpur and others*, (2), to submit that in case of a deceased person of 40 years of age or above the multiplier could not go beyond 10. It is because of this firm stand that the meaningful question noticed at the very outset arises for consideration.

6. It appears to me that the aforesaid argument stems from some misapprehension of the true ratio in the authoritative decision of the Full Bench in *Lachhman Singh's case* (supra). Undoubtedly, a penumbral area does seem to exist with regard to the age of the deceased as a consideration for determining the multiplier to be applied. However, as the matter stands adjudicated upon by the binding decision of five Judges in *Lachhman Singh's case*, it is indeed wasteful and inapt to examine the matter afresh and it suffices to elucidate the ratio and the observations of the Full Bench in this context.

7. Now it deserves to be recalled that a reference to a larger Bench of five Judges in *Lachhman Singh's case* (to which I was a party) was necessitated because of the conflicting and confusing modes resorted to by the Courts for the fixing of compensation for accident victims under the Motor Vehicles Act. Two basic methods employed for this purpose had come up for close consideration before the Full Bench. The first one was what has been called the interest theory resting on the principle that irrespective of other considerations the dependents must be given a lump-sum amount as compensation, the interest wherefrom would be equivalent of the financial support

(2) 1979 P.L.R. 618.

which the deceased was giving to his dependents. The second method was that of determining the annual financial dependency of the deceased and multiplying the same with the remaining years of his normal life expectancy.

8. In critically examining the aforesaid two methods, Harbans Lal, J., who prepared the judgment of the Court eruditely delineated both the history and the theory of grant of compensation to the dependents of the victims of motor accidents, both under the statute and existing precedent. Reference was made to the authoritative English cases both of the Court of Appeal and the House of Lords in this context to hold that in England, the multiplier method had come to be the universally accepted mode for the grant of compensation in such cases. It was then noticed in particular that their Lordships of the Supreme Court had approvingly referred to the English cases and followed the principles spelt out therein in *Gobald Motor Service Ltd.* v. *R.M.K. Veluswami,* (3) *and Municipal Corporation, Delhi* v. *Subhagwanti and others,* (4).

9. Again on an indepth consideration it was held that both the interest theory and the method of multiplying the annual dependency for the remaining years of life expectancy were slippery and unsatisfactory methods of compensation. Specifically it was observed—

> " . . . To my mind, the interest theory is impracticable and unrealistic and will not be a proper yard stick for determining the correct amount of compensation.

and again—

> " . . . In order to do justice between the parties, the method of multiplying the annual dependency by the number of years by which the life has been cut short without any further reduction is unreasonable and unrealistic. The amount of damages or compensation should not serve as windfall to the dependents."

(3) AIR 1962 S.C. 1.
(4) AIR 1966 S.C. 1750.

As a necessary consequence both the aforesaid methods were rejected by the Full Bench and the multiplier system was authoritatively accepted with the following observations :—

> "* * * The multiplier principle appears to be more sound and equitable. The statement of law to the same effect has been enunciated by their Lordships of the Supreme Court."

The basic six principles for applying the multiplier system and for determining compensation were then precisely spelt out in paragraph 27 of the report. For the purpose of determining a suitable multiplier again the Full Bench had itself opined as follows:—

> "* * * For the purpose of determining this multiplier, no exact and mathematical calculation can be provided. The English Courts have held in some cases that 16 times multiplier was quite sound and reasonable. The Supreme Court have gone further and in one case even 20 times was considered to be a suitable multiplier."

From the above it would necessarily follow that the normal multiplier is 16 and rises to a maximum of 20, and subject to reduction from the norm in view of the various imponderables and other factors which may come to be considered in a particular individual case."

10. Before proceeding further it calls for notice that within this jurisdiction it has now come to be well-settled that the normal life expectancy in the region can be safely fixed at 70 years subject, of course, to the peculiar vagaries of an individual case. It is unnecessary to multiply authorities and it suffices to refer to the observations in recent cases which are in tune with the main stream of judicial opinion on this point. See *Smt. Sukhnandan Kaur and others* v. *National Insurance Co. Ltd., Chandigarh,* (5) *and M/s Kasturba Sewa Mandir, Rajpura* v. *Mst. Bachan Kaur and others,* (6).

11. In the light of the above what deserves highlighting is the fact that the Full Bench in terms rejected the method of determining compensation by multiplying the annual financial dependency with the remaining years of life expectancy. It is manifest

(5) 1980 P.L.R. 42.
(6) 1980 P.L.R. 357.

that in this method once the annual financial dependency had been determined the age of the deceased was a paramount factor. For instance, as the normal expectancy of life in the region has been held to be 70 years then it would follow that if the deceased person was of 20 years of age the annual financial dependency was to be multiplied 50 times. On the other hand if the deceased was of 60 years then the figure would be only the remaining 10 years. Consequently, the age of the deceased in this method was a paramount, if not a conclusive consideration. The Full Bench expressly rejected this method as unreasonable and unrealistic. Therefore, in a way the paramountcy or conclusiveness of age for the determination of compensation stands already authoritatively negatived.

12. In *Lachhman Singh's case* (supra), the ratio proceeds on the basic hypothesis that the law provides primarily for the pecuniary loss caused to the dependents and solatium was alien to the concept of compensation in this context. The whole object, therefore, is to give the dependents an equivalent financial support for the remaining years which the deceased was providing to them at the time of the accident taking into consideration various imponderables in an individual case but not matters which were totally conjectural and hypothetical. For instance, the slippery factor of inflation matched by rising 'Bank interest rates' was ruled out of ken. The primary purpose herein is to give the dependents a consolidated fund of money which would continue to yield annual financial support which the deceased was providing to his dependents. Once that basic object is achieved the age of the deceased ceases to have relevance except in one instance. This is where the remaining life expectancy is lesser than the multiplier sought to be applied. This may be highlighted by an extreme example. In a case where a deceased would be 69 years of age and the life expectancy is pegged at 70 years than obviously a multiplier above one would be uncalled for. Similarly where the age of the victim of the accident is 60 years the maximum multiplier cannot go beyond 10 subject, of course, to reduction in view of any other factors. In cases where this limitation does not come in the age of the deceased person ceases to be of any relevance. It is not that the compensation for a man dying at 20 (all other things being equal) has necessarily to be double or higher than the one killed at the age of 40. This is so because the consolidated sum of money given as compensation to the dependents is an impersonal fund of money which will continue to yield an income equivalent to the annual financial dependency thereafter,

irrespective of the age of the deceased. Indeed the assumption is that this amount would guarantee the availability of an equivalent annual financial income for the rest of the time thereafter.

13. The aforesaid aspect may be illustrated by concrete example. Assuming in a particular case that the annual financial dependency of the deceased was Rs. 10,000. By applying normal multiplier of 16 compensation would be granted at the figure of Rs. 1,60,000. At the normal rate of interest or other prudent investment this amount would yield an income to the tune of Rs. 10,000 annually continuously thereafter. That being so the widow or the dependents of such a deceased would thereafter continue to receive that amount every year. Consequently in such a context whether the deceased was 18 years of age or 54 years would hardly be relevant to the issue of compensation.

14. It bears repetition that the multiplier system has been accepted and adopted primarily because it excluded the freakish consideration of the age of the deceased on which the earlier method of multiplying the annual dependency with the remaining years of life expectancy hinged. That formula worked to such anamolies that if the deceased person were to be killed at 18 then on the norm of 70 years life expectancy the quantum of compensation was to be arrived at by multiplying the annual dependency with so high a figure as 52. This obviously leads to great distortion. In order to apply a corrective to the aforesaid distortion, this method had to be rejected and the multiplier concept substituted in its place. To again introduce the consideration of age (but for the exception noticed above) in the multiplier system would be reinducting the same fallacy therein which was sought to be rectified by rtjecting the earlier method.

15. Reference must necessarily be now made to the observations of the learned Judge in *M/s Hoshiarpur National Transporters' case* (supra). Therein also the learned Judge had applied the multiplier of 10 only in the case of a victim of accident aged 41 years. A perusal of the judgment would show that even after taking into consideration the special features of the case and reducing the annual financial dependency from a figure of Rs. 15,600 to Rs. 12,000, he still applied a multiplier of 10 only. It is plain that on the normal life expectancy of 70 years the deceased could still expect to live for another 29 years. The multiplier of 10, as already

noticed, was far below the norm and the other imponderables had been expressly taken notice of to cut down the figure of the annual dependency. No reason other than that of age seems to have weighed with the learned Judge in deviating from the normal multiplier of 16.

16. For the detailed reasons recorded above and with the greatest respect to the learned Judge the consideration of the age of the deceased being 41 years was irrelevant for deviating from the normal multiplier and the judgment has, therefore, to be overruled on this point.

17. To conclude it is held that the age of the deceased person is neither a conclusive nor a paramount factor in the determination of the compensation except in those cases where the remaining years of life expectancy are less than the multiplier which is sought to be applied.

18. Reverting back to the facts of the present case in the light of the above what has first to be borne in mind is that the Tribunal had rendered its award way back in 1968. At that stage the enunciation of the law and the Full Bench judgment in *Lachhman Singh's* case was as yet more than a decade away and consequently its principles could not possibly be applied. Apparently the view with regard to the normal expectancy of life was also taken on the conservative side by the Tribunal and was pegged at 60 years only. Later judgments of this High Court have now authoritatively held that within this jurisdiction the normal life expectancy in this region can reasonably be placed as 70 years. That being so the deceased being 45 years could expect to live for another 25 years. It deserves notice that neither before the Tribunal nor before the learned Single Judge or before us any dispute was raised with regard to the quantum of annual financial dependency fixed at the figure of Rs. 1,200 per year. No other imponderable or special factor which could warrant the reduction of the normal multiplier in the present case exists. The only thing that seemed to have weighed with the learned Single Judge was the age factor which, as opined above, was not relevant in the context of the remaining life expectancy of as much as 25 years. Therefore, it appears to us that there is no warrant for applying a multiplier of less than the normal one of 16. It deserves recalling that the Full Bench in *Lachhman Singh's case* itself had determined the suitable multiplier at 16. It bears repetition

that their Lordships of the Supreme Court have applied a multiplier as high as 20 though this must be considered as virtually the outer limit. Consequently we see no reason why in this case the norm of 16 should at all be deviated from. Applying the same the compensation figure would work out to Rs. 19,200 only. However, because the appellants had not preferred any appeal against the judgment of the Tribunal wherein Rs. 18,000 had been awarded and further because the express claim in the present Letters Patent Appeal also is for the restoration of the amount of compensation by the Tribunal. we are precluded from granting compensation at the aforesaid amount of Rs. 19,200. This appeal is, therefore, allowed and in the peculiar circumstances the compensation awarded to the appellants is restored to Rs. 18,000. The appellants would also be entitled to their costs.

N.K.S.

Before S. S. Sandhawalia, C.J. and D. S. Tewatia, J.

HANS RAJ and another,—*Appellants.*

versus

SUKHDEV SINGH and another,—*Respondents*

First Appeal from Order No. 20 *of* 1981.

February 23, 1982.

Motor Vehicles Act (IV of 1939)—Sections 94, 95, 96 and 110-B—Compensation awarded in a motor accident—Vehicle insured with an insurer for an amount higher than the limit prescribed by section 95(2)—Liability of the insurer—Whether extends to the sum assured by the policy—Financial limits prescribed by section 95(2)—Whether the minimum prescribed by the statute.

Held, that a close reading of sections 94 and clauses (a), (b), (c) and (d) of sub-section (2) of section 95 of the Motor Vehicles Act, 1939, seems to indicate that the limit of financial liability and the other requirements of the policy are the minima prescribed by the statute in order to comply with the requirements of a mandatory insurance against the third party risk. Section 95 itself lays down the minimum limits etc. for conforming thereto. This however, cannot be read as the maximum limits of financial liability for