

Before M.Jeyapaul, J
RALLA SINGH—Appellant

versus

BALWANT SINGH AND OTHERS—Respondents

FAO NO. 6647 OF 2011

JANUARY 7, 2013

Motor Vehicles Act 1988-S.166 - Appeal against quantum of compensation-Whether the age of parents should be considered while deciding the multiplier-The age of father was considered instead of the deceased son - Held, the age of parents in case of death of a bachelor/ minor is a relevant factor to determine multiplier - Appeal dismissed.

Held that it has been categorically held that the age of the parents while determining the multiplier in a case of death of a bachelor was quite relevant.

(Para 11)

Further held, that in a case where the age of the claimant is higher than the age of the deceased, the age of the claimant and not the age of the deceased has to be taken into account for capitalization of lost dependency. It is so because the choice of multiplier is determined by the age of the deceased or that of the claimant whichever is higher.

(Para 13)

Further held, that I have no hesitation to hold that the age of the parents/claimants in case of death of a bachelor/minor is a relevant factor to determine the multiplier to be applied to arrive at the loss of dependency.

(Para 15)

Ashwani Arora, Advocate, *for the appellant.*

Gopal Mittal, Advocate, for respondent No. 1 and 3.

Vinod Chaudhri, Advocate for respondent No. 2.

M. JEYAPAU, J.

(1) Aggrieved by the quantum of compensation fixed by the Tribunal, the father of the deceased-bachelor has come forward with the present appeal.

(2) Taking into consideration the age of the father who was 61 years at the time of accident rather than the age of the deceased-bachelor who was 24 years at the time of accident, the Tribunal applied the multiplier of '8' to arrive at the loss of dependency.

(3) Learned counsel appearing for the appellants would submit that as per the latest decision of the Hon'ble Supreme Court as enunciated in *Sarla Verma versus DTC (1)*, the relevant multiplier should be applied taking into consideration only the age of the deceased and not the age of the claimants which is totally irrelevant to fix the multiplier.

(4) *Per contra*, learned counsel appearing for the respondents would submit referring to the earlier decisions of the Hon'ble Supreme Court that the age of the claimants is very much relevant while determining the loss of income of the deceased-bachelor.

(5) In *Sarla Verma vs. DTC, (supra)* the Hon'ble Supreme Court in paragraph 19 of the judgement held as follows:-

"Having regard to the age of the deceased and period of active career, an appropriate multiplier should be selected. This does not mean ascertaining the number of years he would have lived or worked but for the accident. Having regard to several imponderables in life and economic factors, a table of multipliers with reference to the age has been identified by this Court. The multiplier should be chosen from the said table with reference to the age of the deceased."

(6) It is to be noted that in the aforesaid case the specific question whether the age of the deceased-bachelor or the age of his parents should be taken into consideration while fixing the multiplier has not arisen for serious determination.

(7) In *P.S.Somanathan and others versus District Insurance Officer and another (2)*, (decided on 17.2.2011), the Hon'ble Supreme Court has held as follows:-

"16. The High Court unfortunately took a very technical view in the matter of applying the multiplier. The High Court cannot keep out of its consideration the claim of the daughter of the first claimant, since the daughter was impleaded, and was 40

(1) (2009) 6 SCC 121

(2) (2011) 3 SCC 566

years of age. Admittedly, the deceased, was looking after the entire family. In determining the age of the mother, the High Court should have accepted the age of the mother at 65, as given in the claim petition, since there is no controversy on that. By accepting the age of mother at 67, the High Court further reduced the multiplier from 6 to 5, even if we accept the reasoning of the High Court to be correct. The reasoning of the High Court is not correct in view of the ratio in Sarla Verma. Following the same the High Court should have proceeded to compute the compensation on the age of the deceased. Thus, the finding of the High Court is contrary to the ratio in Sarla Verma, which is the leading decision on this question and which we follow."

(8) In a subsequent decision in *Anurag Bhanu Shan and others* versus *National Insurance Co. Ltd. and others*, (3) (decided on 4.4.2012) the Hon'ble Supreme Court has held as follows:-

"17. The selection of multiplier is based on the age of the deceased and not on the basis of the age of dependant. There may be a number of dependants of the deceased whose age may be different and, therefore, the age of dependants has no nexus with the computation of compensation."

(9) The aforesaid decisions would postulate that the age of the dependents has no relevance in determining the multiplier to be adopted in a case of death of a bachelor.

(10) It is relevant to refer to some of the earlier decisions of the Hon'ble Supreme Court which lay down a different provision. In a Three Judges' Bench of the Hon'ble Supreme Court in *UP. State Road Transport Corporation and others* versus *Trilok Chandra and others* (4), has held as follows:-

"Besides, the selection of multiplier cannot in all cases be solely dependent on the age of the deceased. For example, if the deceased, a bachelor, dies at the age of 45 and his dependents are his parents, the age of the parents would also be relevant in the choice of the multiplier."

(3) 2012 ACJ 2002

(4) (1996) 4 SCC 362

(11) In the aforesaid decision pronounced by the Three Judges' Bench of the Hon'ble Supreme Court [it has been categorically held that the age of the parents while determining the multiplier in a case of death of a bachelor was quite relevant.]

(12) The aforesaid decision of the Three Judges' Bench was followed by the Hon'ble Supreme Court in a later decision in *Ramesh Singh and another* versus *Satbir Singh and another* (5), 2608 (1) SCC 669, (decided on 21.1.2008) and it was held therein that the age of the parents was a relevant factor in determining the multiplier in case of death of a minor.

(13) In a subsequent decision in *Shakti Devi vs. New India Insurance Company Ltd. and another* (6), it has been categorically held as follows:-

"In a case where the age of the claimant is higher than the age of the deceased, the age of the claimant and not the age of the deceased has to be taken into account for capitalization of lost dependency. It is so because the choice of multiplier is determined by the age of the deceased or that of the claimant whichever is higher."

(14) In view of the above conflicting decisions of the Hon'ble Supreme Court, this Court is bound to follow the ratio laid down by the Bench of Three Judges in *Tnlok Chandra's case* (supra) and the decision of the Hon'ble Supreme Court in *Ramesh Singh's case* (supra) following the decision of aforesaid Three Judges' Bench.

(15) In view of the above. [I have no hesitation to hold that the age of the parents/claimants in case of death of a bachelor/minor is a relevant factor to determine the multiplier to be applied to arrive at the loss of dependency.]

(16) The Tribunal has rightly applied the multiplier taking into consideration the age of the appellants. Therefore, the appeal fails and is stands dismissed.

A. Aggarwal

(5) (2008) 1 SCC 667

(6) (2010) 14 SCC 575