

Supreme Court of India Baby Radhika Gupta & Ors vs Oriental Insurance Co. Ltd. & Ors on 24 November, 2009 Author:J. Bench: Dalveer Bhandari, A.K. Patnaik IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.7736 OF 2009
(Arising out of S.L.P. (C) No.3289 of 2008)

Baby Radhika Gupta and Ors. ... Appellant(s)

Versus

Oriental Insurance Co. Ltd. and Ors. ... Respondent(s) O R D E R

Leave granted.

Heard learned counsel for the parties. This appeal is directed against the judgment of the Delhi High Court delivered in Motor Accident Claims Appeal No.239 of 2004 on 9th July, 2007. On 19th May, 1995, Pankaj Gupta, aged 32 years, died in vehicular accident. The Motor Accident Claims Tribunal gave compensation of Rupees forty five lakhs to his wife, minor daughter and his parents. The Oriental Insurance Company [for short, 'the Insurance Company'], being aggrieved by the said judgment, filed an appeal before the High Court. The High Court reduced the compensation to Rs.5,82,132/-. Aggrieved thereby, the dependents of the deceased have preferred this appeal by way of special leave. According to the appellants, the High Court has erred in applying the multiplier of 14, when, according to the second schedule to the Motor Vehicles Act, 1988, the correct multiplier ought to be 17, because at the time of death, the deceased was 32 years' of age. The learned counsel appearing for the appellants also submitted that, out of the total income, the High Court deducted two-third of the amount as personal expenditure of the deceased; whereas, according to the settled legal position crystallised in number of cases, ... 2/- - 2 - it should be one-third. We find substance in the contentions of the learned counsel for the appellants and deem it appropriate to modify the order. If we deduct one-third as personal expenditure from the annual income of Rs.1,18,314/- of the deceased, then it comes to Rs.39,438/- and the remaining amount would be Rs.78,876/- and if it is multiplied by 17, then the amount would work-out to be Rs.13,40,892/-. The deceased was 32 years' of age when the accident took place and looking to the peculiar facts and circumstances of the case, we deem it appropriate to grant Rupees two lakhs on account of future prospects. The appellants would also be entitled to the amount of Rupees five thousand, given by the High Court, towards funeral expenses and Rupees twenty five thousand towards loss of love and affection. With this modification, the civil

appeal is disposed of. In case the Insurance Company desires to recover this amount from the owner of the vehicle, it would be at liberty to do so in accordance with law. We direct the Insurance Company to pay the balance amount to the appellants within four weeks from today with interest at the rate of nine per cent per annum. In the facts and circumstances of the case, the parties to bear their own costs.J. [DALVEER BHANDARI]
.....J. [A.K. PATNAIK] New Delhi, November 24, 2009.