

## **M/S Royal Sundaram Alliance Insurance ... vs Mandala Yadagari Goud on 9 April, 2019**

**Equivalent citations: AIR 2019 SUPREME COURT 1825, 2019 (5) SCC 554, AIRONLINE 2019 SC 385, (2019) 136 ALL LR 213, (2019) 201 ALLINDCAS 235, (2019) 2 ACC 111, (2019) 2 CURCC 221, (2019) 2 KER LT 326, (2019) 2 PAT LJR 260, (2019) 2 PUN LR 511, (2019) 2 RAJ LW 1097, 2019 (2) SCC (CRI) 624, (2019) 2 TAC 353, (2019) 2 WLC(SC)CVL 148, (2019) 3 ACJ 1644, (2019) 3 ANDHLD 160, (2019) 3 CIVLJ 397, (2019) 3 RECCIVR 36, (2019) 3 UC 1776, (2019) 4 ALL WC 3424, (2019) 4 KCCR 3300, (2019) 6 SCALE 82, (2019) 74 OCR 703, AIR 2019 SC (CIV) 2785, AIRONLINE 2019 SC 2390**

**Author: Sanjay Kishan Kaul**

**Bench: Mohan M. Shantanagoudar, Sanjay Kishan Kaul, S.A. Bobde**

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Reportab

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO.6600 OF 2015

M/S. ROYAL SUNDARAM ALLIANCE  
INSURANCE COMPANY LTD.

... APPELLANT

VS.

MANDALA YADAGARI GOUD & ORS.

... RESPONDENT

WITH

C.A.No. 1954/2019 @ SLP(C)NO.5603/2019 @ CC No. 11685/2016,

C.A.NO.178/2017 &

C.A.No.1953/2019 @ SLP(C)NO.19797/2015

J U D G M E N T

Sanjay Kishan Kaul, J.

C.A.No.6600/2015 & C.A. NO.1954/2019 @ SLP(C)5603/2019 @ CC

1. The only legal issue canvassed before us in these matters, which are in the nature of cross appeals, is that in the case of a motor accident where there is death of a Reason: person, who is a bachelor, whether the age of the deceased or the age of the dependents would be taken into account for calculating the multiplier.
2. The appellant in C.A.No.6600/2015 is the insurance company, whose counsel submits that it is the age of the dependents which has to be taken into account and thus the High Court has fallen into an error by taking the multiplier on the basis of the age of the deceased.
3. To support his contention, learned counsel, for reference purposes, filed two compilations of judgments one against him and one in his favour. We put a specific query to the learned counsel as to whether there are any three Judge Bench decisions dealing with the issue, as there was no purpose in looking at multiplicity of judgments, and what was the last view adopted by this Court in this behalf.
4. Learned counsel conceded that a three Judge bench of this Court in Sube Singh & Anr. Vs. Shaym Singh (Dead) & Ors.<sup>1</sup>, looked into this issue and has opined that it is the age of the deceased which should be the basis of the multiplier. However, his contention is that a reading of this judgment would show that reliance has been placed on the earlier judgment in Munna Lal Jain & Anr. Vs. Vipin Kumar Sharma & Ors.<sup>2</sup>, to come to this conclusion. Munna Lal Jain (supra) in turn relied upon the judgment in Sarla Verma (Smt.) & Ors. Vs. Delhi Transport Corporation & Anr.<sup>3</sup>, which view is stated to have been affirmed by the 1 (2018) 3 SCC 18 2 (2015) 6 SCC 347 3 (2009) 6 SCC 121 Constitution Bench in National Insurance Company Ltd. Vs. Pranay Sethi & Ors.<sup>4</sup> It was submitted that a sequential error has taken place as Sarla Verma (supra) did not deal with the case of a deceased bachelor and thus, the imprimatur given in Pranay Sethi case could be of no avail. Thus, a mere affirmation of the views in Sube Singh (supra) also does not settle this legal position. On the other hand, there are two Judge Bench judgments taking a contra view that the age of the dependents is what has to be the basis for multiplier and not the age of the deceased in the case of death of a bachelor. He also made a reference to one order of a three Judge Bench in New India Assurance Company Ltd. Vs. Shanti Pathak (Smt.) & Ors.<sup>5</sup>, but that one is indisputably an adjudication on given facts.
5. Insofar as the appeal filed by the claimants are concerned, it is not in dispute that 50% has been granted for future prospects, and that is the only aspect before us seeking an enhancement of the same. In this behalf it is pointed out to us that actually 40% ought to have been awarded in terms of Pranay Sethi case (supra).

6. We have given our thoughtful consideration to the matters in issue.

4 (2017) 16 SCC 680 5 (2007) 10 SCC 1

7. The concept of insurance for a motor vehicle is to cover risk in case of an accident. The insurance policy covers personal risk of injury or death, including for third parties. The premium charged in this behalf is uniform.

8. The judicial pronouncements of this Court have endeavoured to devise a standard formula, so far as possible, in respect of the calculation of the amount of compensation qua various components. The amount of compensation determined is to be paid to the claimants who are dependents in case of a death of a person based on what the deceased would have contributed to their support. The amount thus received by the dependents in turn becomes a part of the estate as they may live longer or may be younger than the age limits taken into account for calculation of a multiplier to be applied in such a situation. In the context of liability to pay compensation on the principle of no fault, as enunciated under Section 140 of the Motor Vehicles Act, 1988, thus, it was observed by this Court that even if there is no loss of dependency, the quantification cannot be below that amount and to that extent the amount would form a part of the estate of the deceased<sup>6</sup>.

9. The focus for determination of such claim is the deceased and what would be his contribution towards the 6 See *Manjuri Bera (Smt) v. Oriental Insurance Company Ltd. And Anr.*, (2007) 10 SCC 643 dependents would he to be alive, for the benefits of the dependents. It is trite to say, and in fact conceded by the learned counsel for the insurance company, that in case the deceased is a married person, it is the age of the deceased which is to be taken into account. The question is whether in case the deceased is a bachelor, a different principle for calculation of the multiplier should be applied by shifting the focus to the age of the claimants? We are of the view that the answer to this question should be in the negative.

10. We may also note the importance of applying uniform settled principle to such cases. Certainty of law is important. Once the law is settled, it should not be repeatedly changed as that itself causes confusion and litigation. It is with this objection that this Court has endeavoured to settle legal principles in respect of the matter in question.

11. A reading of the judgment in *Sube Singh (supra)* shows that where a three Judge Bench has categorically taken the view that it is the age of the deceased and not the age of the parents that would be the factor for the purposes of taking the multiplier to be applied. This judgment undoubtedly relied upon the case of *Munna Lal Jain (supra)* which is also a three Judge Bench judgment in this behalf.

The relevant portion of the judgment has also been extracted. Once again the extracted portion in turn refers to the judgment of a three Judge Bench in *Reshma Kumari & Ors. Vs. Madan Mohan & Anr.*<sup>7</sup>. The relevant portion of *Reshma Kumari* in turn has referred to *Sarla Verma (supra)* case and given its imprimatur to the same. The loss of dependency is thus stated to be based on : (i) additions/deductions to be made for arriving at the income;

(ii) the deductions to be made towards the personal living expenses of the deceased; and (iii) the multiplier to be applied with reference to the age of the deceased. It is the third aspect which is of significance and Reshma Kumari categorically states that it does not want to revisit the law settled in Sarla Verma case in this behalf.

12. Not only this, the subsequent judgment of the Constitution bench in Pranay Sethi (supra) has also been referred to in Sube Singh for the purpose of calculation of the multiplier.

13. We are convinced that there is no need to once again take up this issue settled by the aforesaid judgments of three Judge Bench and also relying upon the Constitution Bench that it is the age of the deceased which has to be taken into account and not the age of the dependents. 7 (2013) 9 SCC 65

14. The aforesaid being the only issue which has been raised by the insurance company, we find the appeal filed by the insurance company without merit.

15. We have already noticed that insofar as the claimants are concerned, they have already been granted more than a reasonable amount for future prospects and on that account also no interference is called for in the impugned judgment.

16. The result is that both the appeals are dismissed leaving the parties to bear their own costs. Pending application, if any, stands disposed of. C.A.No.1953/2019 @ SLP(C)NO.19797/2015 :

17. In view of the judgment delivered today in Civil Appeal No.6600/2015 titled as M/s. Royal Sundaram Alliance Insurance Company Ltd. Vs. Mandala Yadagari Gold & Ors., opining that it is the age of the deceased and not such of the dependents in case of the death of a bachelor which is to be the basis for the multiplier, this appeal is also liable to be dismissed as this is the only plea urged. Pending application, if any, stands disposed of.

18. In view of the judgment delivered today in Civil Appeal No.6600/2015 titled as M/s. Royal Sundaram Alliance Insurance Company Ltd. Vs. Mandala Yadagari Gold & Ors., the multiplier in the present case will be 16, and not as per the impugned order, based on the age of the deceased. The amount now payable in view thereof would be as under :

Sl.No. Particulars MACT High Court Payable

1. Salary Rs.7242/- Rs.7242/- Rs.7242/-

2. Annual 86,904 (7242x12) 86,904 (7242x12) 86,904 (7242x12) Income

3. Add Future Nil Nil 50% = 1,30,356/-

Prospects

4. Less :  $\frac{1}{3} 50\% 50\% = 65,178$  (on the basis of (Average age of (Age of the average age of the parents 54 & 53 deceased) parents =  $57 \frac{1}{2}$  years) ( $65,178 \times 16 =$  years 10,42,848)

6. Loss of 2000/- 2000/- 30,000/-

companion-

ship

7. Total 4,65,488/- 4,79,972/- 10,72,848/-

8. Difference Nil Nil 5,92,876/-

9. Interest 9% 9% 9%

19. We may note that learned counsel appearing for the respondent also sought to canvas that the only change being on account of the multiplier, that plea was not even raised in the appeal. We, however, find that ground (4) of the special leave petition is wide enough to cover that issue. The appeal is thus allowed to the aforesaid extent. Pending application, if any, stands disposed of.

.....J. [S.A. BOBDE] .....J. [SANJAY KISHAN KAUL] .....J.  
[MOHAN M. SHANTANAGOUDAR] New Delhi;

April 09, 2019.