

[2019] 6 S.C.R. 941

M/S. ROYAL SUNDARAM ALLIANCE INSURANCE  
COMPANY LTD.

A

v.

MANDALA YADAGARI GOUD & ORS.

(Civil Appeal No.6600 of 2015)

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APRIL 09, 2019

[S. A. BOBDE, SANJAY KISHAN KAUL AND  
MOHAN M. SHANTANAGOUDAR, JJ.]

*Motor Vehicles Accident – Calculation of a multiplier – Where there is death of a person, who is a bachelor, in that case the multiplier is to be calculated on basis of the age of deceased or age of the dependents – Appellant contended that it is the age of the dependents which has to be taken into account – Held: This issue is settled by the judgments of three Judge Bench of Supreme Court in Sube Singh & Anr. v. Shyam Singh (Dead) & Ors., Munna Lal Jain & Anr. v. Vipin Kumar Sharma & Ors., Reshma Kumari & Ors. v. Madan Mohan & Anr. and also judgment of the Constitution Bench in National Insurance Company Ltd. v. Pranay Sethi & Ors. that it is the age of the deceased which has to be taken into account and not the age of the dependents – Motor Vehicles Act, 1988 – s.140.*

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#### Disposing of the appeals, the Court

**HELD :** 1. 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

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- A and to that extent the amount would form a part of the estate of the deceased.[Para 8][946-C-E]
2. The focus for determination of such claim is the deceased and what would be his contribution towards the dependents would he to be alive, for the benefits of the dependents. It is trite to
- B 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? This Court is of the view that the answer to this question should be in the negative. [Para 9][946-F-G]
3. A reading of the judgment in *Sube Singh & Anr. v. Shaym Singh (Dead) & Ors.* 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 & Anr. v. Vipin Kumar Sharma & Ors.* 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. v. Madan Mohan & Anr.* The relevant portion of *Reshma Kumari* in turn has referred to *Sarla Verma (Smt.) & Ors. v. Delhi Transport Corporation & Anr.* 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. [Para 11][947-A-D]

*Sube Singh & Anr. v. Shaym Singh (Dead) & Ors.*  
(2018) 3 SCC 18 : [2018] 1 SCR 636;

*Munna Lal Jain & Anr. v. Vipin Kumar Sharma & Ors.*  
**(2015) 6 SCC 347 : [2015] 7 SCR 207 ; Reshma Kumari & Ors. v. Madan Mohan & Anr. (2013) 9 SCC 65 : [2013] 2 SCR 706 – relied on.**

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*Sarla Verma (Smt.) & Ors. v. Delhi Transport Corporation & Anr.* (2009) 6 SCC 121 : [2009] 5 SCR 1098 – referred to.

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4. Thus, 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. [Para 13][947-E-F]

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

5. In view of the judgment delivered 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. [Para 17][948-B-C]

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**C.A.No.178/2017**

6. In view of the judgment delivered in Civil Appeal No.6600/2015 titled as *M/s. Royal Sundaram Alliance Insurance Company Ltd. v. 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. [Para 18][948-D]

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*National Insurance Company Ltd. v. Pranay Sethi & Ors.* (2017) 16 SCC 680 – followed.

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*New India Assurance Company Ltd. v. Shanti Pathak (Smt.) & Ors.* (2007) 10 SCC 1 : [2007] 8 SCR 237;  
*Manjuri Bera (Smt) v. Oriental Insurance Company Ltd. And Anr.* (2007) 10 SCC 643 : [2007] 4 SCR 590 – referred to.

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A	<u>Case Law Reference</u>	
	[2018] 1 SCR 636	relied on
	[2015] 7 SCR 207	relied on
	[2009] 5 SCR 1098	referred to
B	(2017) 16 SCC 680	followed
	[2007] 8 SCR 237	referred to
	[2007] 4 SCR 590	referred to
	[2013] 2 SCR 706	relied on
C		

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 6600  
of 2015

D From the Judgment and Order dated 23.01.2014 of the High Court  
of Judicature of Andhra Pradesh at Hyderabad in M.A.C.M.A. No.  
2339 of 2011

With

Civil Appeal Nos.1953, 1954 of 2019 and 178 of 2017.

E G. Balaji, Yunus Malik, Anish Maheshwari, Ms. Saroj Bala, Aman  
Malik, Sanjeev Agarwal, Karri Venkata Reddy, Ashutosh Kumar  
Srivastava, Shivnath Tripathi, Satyendra Kumar Chauhan, Arvind S.  
Avhad, Advs. for the Appellant.

F K. K. Bhat, Ranjan Kumar Pandey, Ms. Garima Prashad, J.D.N.  
Shahi, M. K. Dua, Advs. for the Respondent.

The Judgment of the Court was delivered by

**SANJAY KISHAN KAUL, J.**

**C.A.No.6600/2015 & C.A. NO.1954/2019 @ SLP(C)5603/2019  
@ CC No.11685/2016**

G 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 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.

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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 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

<sup>1</sup>(2018) 3 SCC 18

<sup>2</sup>(2015) 6 SCC 347

<sup>3</sup>(2009) 6 SCC 121

<sup>4</sup>(2017) 16 SCC 680

<sup>5</sup>(2007) 10 SCC 1

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A 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.

B 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.

C 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

D 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

E cannot be below that amount and to that extent the amount would form a part of the estate of the deceased<sup>6</sup>.

F 9. The focus for determination of such claim is the deceased and what would be his contribution towards the 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 G are of the view that the answer to this question should be in the negative.

H 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

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<sup>6</sup>See *Manjuri Bera (Smt) v. Oriental Insurance Company Ltd. And Anr.*,(2007) 10

SCC 643

and litigation. It is with this objection that this Court has endeavoured to A  
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. E

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. F

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. G

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<sup>7</sup>(2013) 9 SCC 65 H

- A        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 :

- B        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 C application, if any, stands disposed of.

C.A.No.178/2017

- D        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
E	1.	Salary	Rs.7242/-	Rs.7242/-	Rs.7242/-
	2.	Annual Income	86,904 (7242x12)	86,904 (7242x12)	86,904 (7242x12)
	3.	Add Future Prospects	Nil	Nil	50% = 1,30,356/-
F	4.	Less :	1/3	50%	50% = 65,178
	5.	Multiplier	8 (on the basis of average age of the parents = 57 1/2 years)	11 (Average age of parents 54 & 53 years)	16 (Age of the deceased) (65,178X16 = 10,42,848)
G	6.	Loss of companion-ship	2000/-	2000/-	30,000/-
	7.	Total	4,65,488/-	4,79,972/-	10,72,848/-
H	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.

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Ankit Gyan

Appeals disposed of.