

## **Smt. Supe Dei And Ors. vs National Insurance Co. Ltd. And Anr. on 16 April, 2002**

**Equivalent citations: 2002ACJ1166, JT2002(SUPPL1)SC451, AIRONLINE 2002 SC 205, (2005) 1 ACC 63, (2002) 3 TAC 378, (2002) 1 JT (SUPP) 451, 2009 (4) SCC 513, (2002) 4 ALL WC 2734, (2002) 48 ALL LR 237, (2002) 2 ACJ 1166, 2009 (2) SCC (CRI) 528, (2002) WLC (SC)CIVIL 555**

**Bench: D.P. Mohapatra, Brijesh Kumar, D.M. Dharmadhikari**

### **ORDER**

1. Leave granted.

2. The claimants in this case have filed this appeal for compensation under the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act') assailing the judgments of the High Court of Karnataka in M.F.A. No. 4537 of 1999 (MVC) alongwith cross appeal No. 26/2000 (MVC) in which the compensation awarded by the motor accident claims tribunal has been reduced from Rs. 5,42,000/- to Rs. 3,15,000/-.

3. Dhanurjaya Suna, the victim of the accident was aged about 32 years on the date of the accident i.e. 11.8.1997, He was a gas cutter in M/s. Jindal Vijayanagar Steel at Sandur Taluka, in Bellary district of the State of Karnataka. He was drawing a salary of Rs. 2015/- per month and including the overtime allowance his monthly income was about Rs. 4,000/-. The tribunal, for the purpose of determination of compensation had taken the monthly income of the deceased as Rs. 4,000/-, had applied the multiplier 15 and awarded a sum of Rs. 5,42,000/- as compensation. The High Court on appeal by the owner and insurer of the vehicle, excluded the overtime allowance from the monthly income and determined net income of the deceased at Rs. 1,515/- per month and maintained the multiplier 15 as fixed by the tribunal. The total compensation amount payable to the claimants was determined as Rs. 3,15,0007-. Both the tribunal and the High Court awarded 6% interest per annum on the compensation from the date of making the claim till the date of realization.

4. By the order passed on 3.9.2001 this Court issued notice, to the respondents limited to the question of appropriate multiplier to be applied in the case. Therefore, learned counsel for the parties confined their submissions to the question of appropriate multiplier and the rate of interest on the compensation awarded.

5. Ms. Kiran Suri, learned counsel for the appellant contended that 17 should have been taken as the appropriate multiplier in the case as that is the multiplier prescribed under the second schedule to the Act. Her further contention is that neither the tribunal nor the High Court has given any reason why the multiplier of 17 could not be accepted as the appropriate multiplier, and instead 15 should be taken as the multiplier applicable in the case. The further contention of Ms. Suri is that the rate of

interest awarded in all such cases under the Motor Vehicles Act is 9% per annum and here also no reason has been stated in the award and the judgment as to why it should be reduced to 6% per annum in this case.

6. Learned counsel appearing for the respondent, insurance company, fairly stated that according to the age of the deceased as found by the tribunal, the multiplier of 17 is to be applied as provided in the second schedule to the Act. It is not disputed that though the second schedule to the Act in terms does not apply in the case since the claim is not made under Section 163A of the Act, it serves as a guideline for the purpose of determination of compensation under Section 166 of the Act.

7. On consideration of the submissions made by the learned counsel for the parties and on perusal of the judgment of the tribunal and the High Court, we find ample substance in the contention raised by Ms. Suri that no reason has been stated by the tribunal or the High Court for fixing the 15 as multiplier.

While considering the question of just compensation payable in a case all relevant factors including the appropriate multiplier are to be kept in mind. The position is well settled that the second schedule under Section 163A to the Act which gives the amount of compensation to be determined for the purpose of claim under the section can be taken as a guideline while determining the compensation under Section 166 of the Act. In that view of the matter, there is no reason why multiplier of 17 should not be taken as the appropriate multiplier in the case.

8. Coming to the question of interest this Court in the case of Kaushnuma Begum (Smt.) and Ors. v. New India Assurance Co. Ltd, and Ors. observed that 9% is the appropriate rate of interest to be awarded and that rate is being applied in motor accident compensation cases.

9. Therefore, the claimants will be entitled to the compensation applying 17 as the multiplier and interest at the rate of 9% per annum will be paid on the sum so calculated from the date of filing of the claim petition till realisation. The order of the tribunal and the judgment of the High Court are modified to the extent as above.

10. The appeal is disposed of accordingly. There shall be no order as to costs.