

# **M.Mansoor & Anr vs United India Insurance Co.Ltd on 3 October, 2013**

**Author: C. Nagappan**

**Bench: C. Nagappan, G.S. Singhvi**

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8612 OF 2013

[Arising out of Special Leave Petition (Civil) No.31010 of 2010]

M. Mansoor & Anr.

..

Appellant(s)

-VS-

United India Insurance Co. Ltd. & Anr. ..

Respondent(s)

## J U D G M E N T

C. NAGAPPAN, J.

1. Leave granted.

2. Feeling dissatisfied with the reduction of compensation determined by the Motor Claims Tribunal, Second Small Causes Court, Chennai in Motor Accident Claim No.M.A.C.T.O.P. No.4973 of 2001, the appellants have preferred this appeal.

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3. The deceased Amjath Khan Arabu, is the son of the appellants. The deceased was travelling as passenger in a Transport Corporation Bus bearing registration no.TN-01-N-6587 to Kumbakkonam from Tambaram on the Grand Southern Trunk Road, while the bus was proceeding near the village Silavattam, a container lorry bearing registration no.TN-01-C-6248 coming rashly and negligently in the opposite direction dashed against the Corporation Bus, resulting in the instantaneous death of

five persons including the son of the appellants. The parents of the deceased-Amjath Khan Arabu, filed a claim petition under Section 166 of the Motors Vehicle Act (for short “the Act”) for awarding of compensation to the tune of Rs.28,00,000/-. They pleaded that the accident was caused due to rash and negligent driving of the container lorry, owned by the Respondent No.1 and that, at the time of his death the age of the deceased was 24 years and he was a MBA Graduate and employed as Business Manager in Intel Comox Management India and was earning Rs.18,100/- per month.

4. Respondent No.1 did not appear and was set Ex-parte. Respondent No.2, insurer of the container lorry, filed a written -

statement stating that the accident was not caused due to the negligence on the part of the driver of the container lorry and also denied the claimant’s assertion about the income of their son Amjath Khan Arabu.

5. Two other claim petitions, arising out of the same accident, were clubbed with the claim petition of the appellants and the Tribunal framed the following issues :

“1. As to who is the cause for the accident cited in these petitions?

2. If so, what should be compensation amount which are liable to be received in each of the petitions?”

6. In support of the claim petitions the first appellant examined himself as PW-1 and four other witnesses were also examined. PW-2 and PW-4 were travelling in the bus and witnessed the accident. According to PW-1 the first appellant, their son Amjath Khan Arabu studied MBA and has been working as the Business Manager in the Firm called Intel Comox Management India and his salary was Rs.18,100/-. Ex.A-1 to A-10 were marked as documents which included the Post Mortem Certificate, MBA Degree Certificate, - Appointment Order for the Job done, Salary Certificate and copy of the Bank Account. No evidence was let in by Respondent No.2.

7. After analyzing the evidence, the Tribunal decided Issue No.1 in the affirmative and held that accident was caused due to rash and negligent driving of container lorry owned by the first respondent.

8. While dealing with the Issue No.2, the Tribunal accepted the evidence produced to show the employment of the deceased as Business Manager and his earning at Rs.18,100/- in the private company. It also determined that the deceased was a bachelor aged about 24 years at the time of accident. The Tribunal deducted 1/3rd of his monthly salary and determined the loss of earnings to family at Rs.12,067/-. The Tribunal then applied the multiplier 17 and declared that the claimants are entitled to get compensation of Rs.24,65,668/- with interest at the rate of 9% per annum from the date of claim petition.

9. Respondent No. 2 the Insurance Company challenged the award of the Tribunal by filing Civil Miscellaneous Appeal No.676 of 2005 before the High Court of judicature at Madras.

10. The High Court referred to the decisions of this Court including *Sarla Verma vs. Delhi Transport Corporation* (2009) 6 SCC 121 and by the impugned judgment dated 30.4.2010 reduced the compensation to Rs.15,14,648/- by applying multiplier of 12 and observed as follows :

.....“We determine the Loss of monthly Income/Pecuniary Loss in respect of the deceased at Rs.15,100/-p.m. as an Equitable one and fair sum. From and out of the sum of Rs.15,100/- we deduct one third sum of Rs.5,033/- towards personal expenses of the deceased and the balance works out to Rs.10,067/- and this sum, we aptly take into account as Loss of Income/Pecuniary Loss per month in respect of the death of the deceased son of the Respondents/Claimants. Per year, it comes to Rs.1,20,804/- (Rs.10,067 x 12). Since the First Respondent/First Claimant's (father) age was 51 and the Second Respondent/Second Claimant's (mother) aged about 46 at the time of the death of the deceased son, we deem it fit and proper to adopt a just fair and reasonable multiplier 12 and accordingly, the Loss of Income works out to Rs.14,49,648/- (Rs.1,20,804 x 12). Towards loss of Love and Affection, we award a sum of Rs.50,000/- to the Respondents/ Claimants. Towards Funeral Expenses, we award a sum of Rs.5,000/-. Towards Loss of Estate, we grant a sum of Rs.10,000/-. Thus, we -

award a total compensation of Rs.15,14,648/- (Rupees fifteen lakhs fourteen thousand six hundred and forty eight only) with interest at 9% p.a. from the date of accident till date of payment with pro costs payable by the Appellant/Second Respondent Insurance Company.”.....

11. The learned counsel appearing on behalf of the appellants relied upon the judgment of this Court in *Sarla Verma* case (supra) referred above and argued that the victim being aged 24 years the multiplier of 18 should have been applied but the High Court committed a serious error by applying the multiplier of 12, which was against the law laid down by this Court in the said decision. The learned counsel appearing on behalf of the Respondent No.1-Insurance Company relying upon the same decision in *Sarla Verma* case (supra) contended that deceased being a bachelor, deduction of 50% towards personal and living expenses ought to have been made and the Tribunal as well as the High Court committed serious error by deducting one-third (1/3rd) only which was against the law laid down by this Court in the said decision. He also further contended that the deceased Amjath Khan Arabu was an unmarried -

person aged about 24 years and the High Court rightly applied the multiplier of 12 as per the age of the claimants (i.e.) parents.

12. We have considered the respective arguments and perused the record. The questions which arise for consideration are :

“1. What should be the deduction for the “personal and living expenses” of the deceased Amjath Khan Arabu to decide the question of the contribution to the parents?

2. What is the proper selection of Multiplier for deciding the claim?”

13. The question relating to deduction for personal and living expenses and selection of multiplier fell for consideration before this Court in Sarla Verma vs. Delhi Transport Corporation (Supra) cited above and this Court referred to large number of precedents including the judgments in U.P. SRTC vs. Trilok Chandra (1996) 4 SCC 362, Nance vs. British Columbia Electric Railway Co. Ltd. (1951) 2 All ER 448 (PC), Davies vs. Powell Duffryn Associated Collieries Ltd. No.2 (1942) 1 All ER 657 (HL) and made an attempt to limit the exercise of discretion by the Tribunals and the High Courts in the matter of award of compensation by laying down -

straitjacket formula under different headings in its judgment some of which are enumerated below :

“30. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in U.P. SRTC vs. Trilok Chandra (1996) 4 SCC 362, the general practice is to apply standardized deductions. Having considered several subsequent decisions of this Court, we are of the view that where the deceased was married the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependent family members is 4 to 6 and one-fifth (1/5th) where the number of dependent family members exceeds six.

31. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle.

In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent(s) and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his -

own income and will not be considered as a dependant and the mother alone will be considered as a dependant. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependants, because they will either be independent and earning, or married, or be dependant on the father.

32. Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and

large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two- third.”

14. Admittedly, both the parents namely the appellants herein have been held to be dependants to the deceased Amjath Khan Arabu and therefore, the Tribunal held that they have the right to get the compensation. The Tribunal as well as the High Court made a deduction of 1/3rd only towards personal and living expenses of the deceased and as rightly contended by the learned counsel for the Respondent No.1, the deceased being a bachelor and the -

claimants being parents, the deduction of 50% has to be made as personal and living expenses as per the decision of this Court in Sarla Verma case (supra) extracted above. The first question is determined accordingly.

15. The Tribunal adopted the multiplier of 17 and the High Court determined the multiplier as 12 on the basis of the age of the parents/claimants. This Court in the decision in Amrit Bhanu Shali & Ors. vs. National Insurance Company Limited & Ors. (2012) 11 SCC 738 held as follows :

“15. The selection of multiplier is based on the age of the deceased and not on the basis of the age of the dependent. There may be a number of dependents of the deceased whose age may be different and, therefore, the age of the dependents has no nexus with the computation of compensation.”

16. In the decision in Sarla Verma case (supra) this Court held that the multiplier to be used should be as mentioned in column (4) of the table of the said judgment which starts with an operative multiplier of 18. As the age of the deceased at the time of the death was 24 years, the multiplier of 18 ought to have been applied. The Tribunal taking into consideration the age of the deceased wrongly -

applied the multiplier of 17 and the High Court committed a serious error by bringing it down to the multiplier of 12.

17. Appellants produced the Salary Certificate of deceased Amjath Khan Arabu, which has been marked as Ex.P-8. It shows that the deceased was earning Rs.18,100/- per month. The Tribunal has rightly taken into consideration the aforesaid income for computing the compensation. The annual income comes to Rs.2,17,200/-. If 50% of the said income is deducted towards personal and living expenses of the deceased the contribution to the family will be Rs.1,08,600/-. At the time of the accident the deceased Amjath Khan Arabu was a bachelor about 24 years old hence on the basis of the decision in Sarla Verma case (supra) applying the multiplier of 18, the amount will come to Rs.19,54,800/-. Besides this amount the claimants are entitled to get Rs.50,000/- each towards the loss of affection of the son i.e. Rs.1,00,000/- and Rs.10,000/- on account of funeral and ritual expenses. Therefore, the total amount comes to Rs.20,64,800/- and the claimants are entitled to get the said amount of compensation instead of the amount awarded by the Tribunal and the High Court. They would also be -entitled to get interest at the rate of 6% per annum from the date of the filing of the claim petition till realization.

18. Accordingly, the appeal is allowed. The impugned judgment dated 30-4- 2010 passed by the High Court of Madras in Civil Miscellaneous Appeal No.676 of 2005 is set aside and the award passed by the Tribunal is modified to the extent above. The amount which has already been received by appellants/claimants shall be adjusted and rest of the amount be paid at an early date.No order as to costs.

.....J. (G.S. Singhvi) .....J. (C. Nagappan) New Delhi;

October 03, 2013.