

Shri Nagar Mal vs The Oriental Insurance Company Ltd on 19 January, 2018

Equivalent citations: AIR 2018 SUPREME COURT 568, 2018 AAC 584 (SC), (2018) 1 ACC 314, (2018) 1 WLC(SC)CVL 398, AIR 2018 SC (CIV) 2014, (2018) 1 PUN LR 419, (2018) 69 OCR 763, (2018) 1 SCALE 391, (2018) 2 ACJ 971, (2018) 130 ALL LR 773, (2018) 189 ALLINDCAS 12 (SC), (2018) 3 ANDHLD 45, (2018) 1 CURCC 129, (2018) 1 TAC 353

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Bench: D Y Chandrachud, A M Khanwilkar, Dipak Misra

1

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO 448 OF 2018
[Arising out of SLP(C) No.26853 of 2016]

SHRI NAGAR MAL AND ORS

..Appellants

VERSUS

THE ORIENTAL INSURANCE COMPANY
LTD. AND ORS

..Respondents

JUDGMENT

Dr D Y CHANDRACHUD, J 1 The present appeal has arisen from a judgment of the High Court of Judicature for Rajasthan at its Jaipur bench confirming the award of the Motor Accident Claims Tribunal (M.A.C.T.).

2 An accident took place on 15 November 2008 when at about 9 p.m. Sonu Kumar Goyal was proceeding on a motor cycle from Mandi Neem Ka Thana to his home. A truck bearing Registration No.RJ-32-GA-0398 dashed against the motor cycle as a result of which Sonu Kumar sustained grievous injuries and died on the spot. The third respondent is the registered owner of the motor vehicle which was insured with the first respondent. The appellants filed a claim for compensation before the Tribunal. By its order dated 16 July 2013 the Tribunal held that the accident was caused

due to the negligence of the driver of the truck. The insurer was held jointly and severally liable together with the owner and driver.

3 While assessing the claim of compensation, the Tribunal noted that the deceased was a bachelor, aged 20 years. On the income of the deceased, the Tribunal did not accept the certificates for the months of August, September and October 2008 produced by the first appellant who is the father of the deceased in support of the case that the deceased had a monthly earning of Rs 15,000/-. The Tribunal indicated that the certificates have not been duly proved. The deceased was pursuing the professional Chartered Accountancy course. The Tribunal adopted an income of Rs.6,000/- per month and since the deceased was a bachelor, it deducted a sum of Rs 3,000/- per month towards personal expenses. A multiplier of 11 was applied on the basis of the age of the parents of the deceased. Accordingly, the loss of dependency was computed at Rs 3,96,000/- and after addition of conventional heads, a total compensation of Rs.4,31,000/- was awarded.

4 The appellants as well as the insurer filed the appeals before the High Court. By its judgment dated 30 May 2016 the High Court has declined to interfere with the award of the Tribunal.

5 Learned counsel appearing on behalf of the appellants has assailed the award of compensation by urging that :

(i) Both the Tribunal and the High Court erred in declining to accept the income certificates produced to indicate that the deceased had a monthly income of Rs 15,000/-;

(ii) No addition on account of future prospects was made;

(iii) The multiplier to be adopted should have been based on the age of the deceased and not on the age of the parents; and

(iv) interest should have been awarded @ 9% p.a. instead of 6% p.a. On the other hand, the learned counsel appearing on behalf of the insurer has supported the view which has been taken by the Tribunal and by the High Court and submitted that no case has been made out for interference by this court with the concurrent findings of both the courts below.

6 The Tribunal has given cogent reasons for declining to accept the income certificates which were relied upon by the father of the deceased. No witnesses were examined on behalf of the companies which were alleged to have issued the certificates to prove the certificates. Evidently there was a failure to establish that the deceased, who was a student pursuing his C.A. was in receipt of a monthly income of Rs 15,000/-. Hence, we are of the view that the assessment of income by the Tribunal cannot be faulted. 7 However, we find merit in the submission which has been urged on behalf of the appellants that the Tribunal failed to apply the correct multiplier and erred in not granting the benefit of future prospects in computing the income of the deceased and the loss of dependency. Having due regard to the judgment delivered by the Constitution Bench of this Court in

National Insurance Company Limited v Pranay Sethi¹ and in Sarla Verma v Delhi Transport Corporation² the correct multiplier should be 17 having regard to the age of the deceased. An addition of 40 per cent towards future prospects would also be warranted in terms of the judgment of the Constitution Bench. On this basis and since the deceased was a bachelor, the loss of dependency would work out to Rs 8,56,800/-. The appellants would be entitled to an amount of Rs 15,000/- towards loss of estate and Rs 15,000/- towards funeral expenses. The award of compensation accordingly stands quantified at Rs 8,86,800/-. The appellants are allowed interest @7.5% p.a. from the date of the filing of the petition before the M.A.C.T. till realization.

8 The appeal is accordingly allowed. There shall be no order as to costs.

.....CJI [DIPAK MISRA]J [A M KHANWILKAR]
.....J [Dr D Y CHANDRACHUD] New Delhi;

January 19, 2018 (2017) 13 SCALE 12 (2009) 6 SCC 121