

R. Valli vs Tamil Nadu State Transport Corporation ... on 10 February, 2022

Author: Hemant Gupta

Bench: V. Ramasubramanian, Hemant Gupta

REPORT

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1269 OF 2022
(ARISING OUT OF SLP (CIVIL) NO. 20913 OF 2018)

R. VALLI & ORS.

.....AP

VERSUS

TAMIL NADU STATE TRANSPORT
CORPORATION LTD.

.....RESP

JUDGMENT

HEMANT GUPTA, J.

1. The legal heirs of deceased V. Rajasekaran are in appeal herein being aggrieved against an order passed by the High Court of Judicature at Madras dated 7.11.2017 granting a compensation of Rs.15,12,628/- along with an interest @ 7.5% from the date of petition till the date of realization on account of the death of the deceased in a motor vehicle accident on 22.02.2011.

2. The deceased was riding a two-wheeler when a bus belonging to the respondent dashed into his vehicle. The deceased suffered head injuries and died instantly. He was born on 11.4.1956 and was 54 years old on the date of accident. On the basis of income and age, the Motor Accident Claim Tribunal, Chennai 1 awarded a compensation of Rs.13,82,628/-.

3. The Tribunal held that the accident occurred due to rash and negligent driving of the bus driver. The appellant examined PW-3, the Assistant Manager of M/s Areva T & D India Limited. He deposed that the deceased was paid salary of Rs.23,062.30. The salary certificate was produced as Ex.P.9. The learned Tribunal assessed the income at Rs.23,062/-. Further observing that the age of

superannuation was 58 years, therefore, the dependency was only for a period of 3 years. After deducting income tax @10%, monthly income was assessed as Rs.20,756/-. The Tribunal deducted 1/4th of the said amount towards personal expenses and awarded a compensation of Rs.5,60,412/- for the period the deceased was to be in employment and thereafter applied a multiplier of 8 on 50% of the income which he would have earned and awarded a sum of Rs.7,47,216/-. The Tribunal also awarded compensation on the conventional heads and thus awarded a total 1 For short, the 'Tribunal' sum of Rs.13,82,628/-.

4. The High Court affirmed the findings recorded by the learned Tribunal in respect of multiplier of 3 upto the date of superannuation and thereafter multiplier of 8 keeping in view the dependency of life for 10 years. The High Court maintained the amount of compensation on account of dependency but enhanced the compensation under the conventional heads, so as to award a sum of Rs.15,12,628/-.

5. Learned counsel for the appellants argued that the multiplier methodology adopted by the Tribunal and affirmed by the High Court was erroneous and not sustainable. It was contended that the multiplier is applied keeping in view the age of deceased and income at the time of death and not by considering the remaining years of service. It was argued that if a person who dies in an accident is 31 years of age and has 27 years of service left, the multiplier is not 28 years but keeping in view the judgment of this Court in Sarla Verma (Smt.) & Ors. v. Delhi Transport Corporation & Anr.², the age of the deceased at the time of death is the base for choosing a multiplier and not the years left in employment. It was held as under:

“42. We therefore hold that the multiplier to be used should be as mentioned in Column (4) of the table above (prepared by applying Susamma Thomas [(1994) 2 SCC 176 : 1994 2 (2009) 6 SCC 121 SCC (Cri) 335] , Trilok Chandra [(1996) 4 SCC 362] and Charlie [(2005) 10 SCC 720 : 2005 SCC (Cri) 1657]), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years.”

6. The judgment in Sarla Verma was affirmed in Reshma Kumari & Ors. v. Madan Mohan & Anr.³. Both the judgments were affirmed by the Constitution Bench of this Court reported as National Insurance Company Limited v. Pranay Sethi & Ors.⁴. This Court in Pranay Sethi held as under:

“44. At this stage, we must immediately say that insofar as the aforesaid multiplicand/multiplier is concerned, it has to be accepted on the basis of income established by the legal representatives of the deceased. Future prospects are to be added to the sum on the percentage basis and “income” means actual income less the tax paid. The multiplier has already been fixed in Sarla Verma [Sarala Verma v. DTC, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002] which has been approved in Reshma Kumari [Reshma Kumari v. Madan Mohan, (2013) 9 SCC 65 :

(2013) 4 SCC (Civ) 191 : (2013) 3 SCC (Cri) 826] with which we concur.

xx xx xx 59.3. While determining the income, an addition of 50% of 3 (2013) 9 SCC 65 4 (2017) 16 SCC 680 actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%.

Actual salary should be read as actual salary less tax. 59.4. In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.

xx xx xx 59.7. The age of the deceased should be the basis for applying the multiplier.”

7. In Pranay Sethi, this Court held that the age of the deceased is the basis for applying suitable multiplier and that the compensation is to be determined keeping in view the future prospects. The future prospects were held to 15% in respect of a deceased between the age of 50 to 60 years.

8. Mr. Amit Anand Tiwari, learned Additional Advocate General has referred to certain orders of the High Courts reported as Uma Shankar & Ors. v. Revathy Vadivel & Ors.⁵, Smt. Kamlesh Devi & Ors. v. Sh. Kitab Singh & Ors.⁶ and Union of India & Ors. v. K.S. Lakshmi Kumar & Ors.⁷ to support the applicability of split multiplier i.e., multiplier upto the date of retirement and another multiplier after retirement.

9. The judgments referred to by Mr. Tiwari are prior to the enunciation of law by this Court in Pranay Sethi. Therefore, such judgments no longer can be said to be good law as suitable multiplier is to be applied keeping in view the age of the deceased in terms of para 59.7 of the judgment in Pranay Sethi.

10. A three-Judge Bench in an order reported as United India Insurance Co. Ltd. v. Satinder Kaur alia Satwinder Kaur & Ors.⁸ has applied the multiplier keeping in view the age of the deceased even if he was a bachelor. The Court held as under:

“48. Another three-judge bench in Royal Sundaram Alliance Insurance Co. Ltd. v. Mandala Yadagari Goud, (2019) 5 SCC 554 traced out the law on this issue, and held that the compensation is to be computed based on what the deceased would have contributed to support the dependants. In the case of the death of a married person, it is an accepted norm that the age of the deceased would be 5 2014 SCC OnLine Mad 846 6 2011 SCC OnLine Del 2843 7 2000 SCC OnLine Kar 406 8 2020 SCC OnLine SC 410 taken into account. Thus, even in the case of a bachelor, the same principle

must be applied.”

11. Thus, we find that the method of determination of compensation applying two multipliers is clearly erroneous and run counter to the judgment of this Court in Pranay Sethi, affirming the judgment in Sarla Verma. Since the deceased was 54 years of age on the date of incident, therefore, the suitable multiplier would be 11 as per the judgment of this Court in Sarla Verma approved by this Court in Pranay Sethi.

12. Hence, the compensation on the basis of income assessed by the Tribunal would be as under:

Head A Monthly Dependency Rs.20,756/-

B	Future Prospects (15% of monthly dependency)	Rs.3,113/-
C	1/4th Deduction towards Personal Expenses	Rs.5,967/-
D	Total Dependency (A + B – C)	Rs.17,902/-
F	Compensation (D x 12 x 11)	Rs.23,63,064/-
G	Loss of Estate	Rs.15,000/-
H	Funeral Expenses	Rs.15,000/-
I	Consortium	Rs.40,000/-
	Total	Rs.24,33,064/-

13. Thus, the appellants are found entitled to compensation of Rs.

24,33,064/- with interest @ 9% from the date of filing of the claim application till realisation.

14. The appeal thus stands disposed of with costs throughout.

.....J. (HEMANT GUPTA)J. (V.
RAMASUBRAMANIAN) NEW DELHI;

FEBRUARY 10, 2022.