

Surti Gupta vs United India Insurance Co. & Anr on 17 March, 2015

Equivalent citations: 2015 AIR SCW 2447, 2015 (11) SCC 457, 2015 AAC 1591 (SC), AIR 2015 SC (SUPP) 1033, (2015) 3 ANDHLD 189, (2015) 4 CIVLJ 547, (2015) 3 TAC 5, (2015) 3 ACJ 1755, 2015 (149) AIC (SOC) 17 (SC)

Author: V. Gopala Gowda

Bench: V. Gopala Gowda, C. Nagappan

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2933 OF 2015
(Arising out of SLP(C) NO. 1868 of 2014)

SURTI GUPTA

...APPELLANT

Vs.

UNITED INDIA INSURANCE CO. & ANR.

...RESPONDENTS

J U D G M E N T

V. GOPALA GOWDA, J.

Delay condoned. Leave granted.

This appeal has been filed by the appellant being dissatisfied with the impugned Judgment and award dated 02.07.2012 passed in FAO No.1647 of 1992 (O & M) by the High Court of Punjab and Haryana at Chandigarh wherein the High Court has awarded the compensation amount of Rs.6,30,000/- to the appellant.

The relevant facts are stated hereunder to appreciate the case with a view to determine whether the appellant is entitled for enhancement of compensation amount as prayed in this appeal.

On the night intervening 9/10.07.1990 at around 12:30 a.m., Parmod Bala, mother of the appellant, who along with five other passengers were travelling in a Maruti Car bearing registration No. PBW-8399, met with an accident near Oasis Tourist Complex on G. T. Road near Uchana village, Police Station Sadar Karnal, when a truck bearing registration No. PIB-5733 being driven rashly and

negligently by respondent no. 2 coming from the opposite direction collided with the said car. Parmod Bala succumbed to the injuries caused to her due to the accident on the same day. An FIR No. 262 was registered on 10.7.1990 at the Police Station, Sadar Karnal under Sections 279/337/304-A of the I.P.C. against respondent no. 2 herein. The appellant being the only surviving legal representative, who was the adopted child of the deceased, filed a claim petition No.89 of 1990 before the M.A.C.T., Karnal seeking for compensation for the death of her deceased mother. The appellant at the time of the accident was 15 years of age and was wholly dependent on her mother. The Tribunal by its award dated 11.11.1991 dismissed the said claim petition filed by the appellant on the ground that she could not prove to be a legal representative of the deceased.

Aggrieved by the said award of the Tribunal, the appellant filed FAO No.1647 of 1992 before the High Court of Punjab and Haryana at Chandigarh. The High Court allowed the appeal filed by the appellant and set aside the award of the Tribunal and awarded an amount of Rs.6,30,000/- to the appellant. The relevant portion of the judgment and award of the High Court is extracted hereunder to examine the break-up of figures and calculation made by the High Court before arriving at the above said compensation amount of Rs. Rs.6,30,000/- awarded under different heads payable to the appellant by the respondent-Insurance Company.

"At the time of death, the deceased was said to have been working as a teacher, drawing a salary of Rs.4,214/-. She was 45 years of age and as per the formula prescribed in the judgment of the Hon'ble Supreme Court in Sarla Verma Versus Delhi Transport Corporation and another [2009(6)SCC 121,] the prospect of increase in salary must have been duly provided for by escalating the salary by another 30%. The average salary must be Rs.5,478/- and if 1/3rd deduction were to be made for the personal consumption of the deceased, the dependency for the appellant must be taken as Rs.3,652/- per month. Providing for a multiplier of 14, the loss of dependency will be Rs.6,13,536/-. To this sum shall be added the loss to estate, funeral expenses and loss of love and affection, all of which, in my view, add to another 15,000/-. In all, the total amount of compensation that become payable, shall be Rs.6,28,536/-, which I round off to Rs.6,30,000/-."

Being aggrieved of the compensation amount awarded by the High Court in its impugned judgment and award, the appellant has filed this appeal seeking for enhancement of compensation urging various grounds in support of her claim.

It is contended by the learned counsel for the appellant that the High Court has failed to appreciate the fact that at the time of the unfortunate incident, the appellant was only 15 years of age and since then i.e. for the last 25 years, the appellant has been suffering from mental trauma, loss of love and affection of her deceased mother and virtually lost the higher education and initial career building period of her life. It is further contended by him that the High Court erred by awarding only an addition of 30% to the actual salary of the deceased at the time of her death towards future income prospects by ignoring the fact that the deceased had a permanent job as a teacher in a Government school and further the High Court has erred in taking the salary of the deceased at the time of her death at Rs.4,214/- when the actual salary drawn was much higher as she was working as a

permanent teacher in a Government school. On the other hand, the above contentions of the learned counsel on behalf of the appellant have been rebutted by the learned counsel for the respondent-Insurance Company by contending that the High Court has passed a detailed and reasoned judgment and award after due application of principles of law and after taking into consideration the legal principles laid down in the latest judgments of this Court on the above relevant aspects of the case. Hence, the same does not require interference by this Court and prayed for dismissal of the appeal.

We have heard the learned counsel for both the parties and also examined the facts and circumstances of the case and the evidence on record. It is clear that the deceased at the time of her death was working as a teacher in a Government school. It has been observed by the High Court that the appellant had been adopted by the deceased, and was wholly dependent on her mother at the time of the accident. It has also been observed by the High Court for the purpose of calculation of future loss of dependency of the appellant that the deceased at the time of the accident on 10.7.1990 was drawing a salary of Rs.4,214/- per month and was 45 years of age. However, we are of the view that the salary of the deceased at the time of her death taken by the High Court is on the lower side considering that she was employed as a permanent teacher in a government school and she must have had at least 20-25 years of work experience at the time of her death. Therefore, on considering the facts, circumstances, pleadings and evidence on record in the present case, we are of the view that it would be just and proper to take the monthly income of the deceased at Rs.6,000/- per month. Further, on addition of 30% to the income of the deceased towards future prospects as per the principles laid down by this Court in the case of *Sarla Verma v. Delhi Transport Corporation and Another*[1], the monthly income for the calculation of future loss of dependency of the appellant would be Rs.7,800/- (Rs.6,000/- + 30% of Rs.6,000/-). Therefore, the annual income comes to Rs.93,600/-. On deduction of 1/3rd of the annual income towards personal expenses and applying the appropriate multiplier as per the principles laid down by this Court in the case of *Sarla Verma* (supra), the future loss of dependency suffered by the appellant is calculated at Rs.8,73,600/- [(Rs.93,600/- (-) 1/3rd of Rs.93,600/-) X 14]. Further, the High Court has certainly erred in awarding a meagre amount of only Rs.15,000/- for loss of estate, loss of love and affection and funeral expenses. Therefore, we award Rs.1,00,000/- towards loss of love and affection as per the decision of this Court in the case of *Juju Kuruvila & Ors. v. Kunjamma Mohan & Ors.*[2]. We also award an amount of Rs.1,00,000/- towards loss of estate as per the decision of this Court in the case of *Kalpanaraj & Ors. v. Tamil Nadu State Transport Corporation*[3]. Further, a sum of Rs.25,000/- is awarded towards funeral expenses as per the principles laid down by this Court in the case of *Rajesh & Ors. v. Rajbir Singh & Ors.*[4] The High Court has further erred in awarding an interest at the rate of 6% per annum only, instead of 9% per annum on the compensation amount as per the principles laid by this Court in the case of *Municipal Corporation of Delhi v. Association of Victims of Uphaar Tragedy*[5]. We accordingly award an interest at the rate of 9% per annum on the compensation amount.

In the result, the appellant shall be entitled to compensation under the following heads:

1.	Loss of dependency	Rs. 8,73,600/-	
2.	Loss of Estate	Rs. 1,00,000/-	
3.	Loss of love and affection	Rs. 1,00,000/-	

4.	Funeral expenses	Rs . 25 , 000 / -	
	TOTAL	Rs . 10 , 98 , 600 / -	

Thus, the total enhanced compensation payable to the appellant by the respondent-Insurance Company will be Rs.10,98,600/- with interest at the rate of 9% p.a. from the date of filing of the application till the date of payment. The respondent-Insurance Company shall either pay by way of demand draft in favour of the appellant or deposit the same with interest as awarded, before the Motor Accidents Claims Tribunal, Karnal, after deducting the amount already paid to the appellant, if any, within six weeks from the date of receipt of the copy of this judgment.

The appeal is allowed as per the above said directions. No Costs.

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J. [V.GOPALA GOWDA]

J. [C. NAGAPPAN] New Delhi, March 17, 2015 ITEM NO.1A-For Judgment COURT NO.9 SECTION IVB S U P R E M E C O U R T O F I N D I A RECORD OF PROCEEDINGS Civil Appeal No(s)...../2015 arising from SLP(C) No.1868/2014 SURTI GUPTA Appellant(s) VERSUS UNITED INDIA INSURANCE CO. & ANR. Respondent(s) Date : 17/03/2015 This petition was called on for pronouncement of JUDGMENT today.

For Appellant(s) Mr. Abhay Kumar,Adv.

For Respondent(s) Ms. Manjeet Chawla,Adv.

Hon'ble Mr. Justice V.Gopala Gowda pronounced the judgment of the Bench comprising His Lordship and Hon'ble Mr. Justice C. Nagappan.

Delay condoned.

Leave granted.

The appeal is allowed in terms of the signed Non-Reportable Judgment.

(VINOD KR. JHA)
COURT MASTER

(TAPAN KUMAR CHAKRABORTY)
COURT MASTER

(Signed Non-Reportable Judgment is placed on the file)

- [1] 2009(6) SCC 121
- [2] (2013)9 SCC 166

- [3] 2014 (5) SCALE 479
- [4] (2013) 9 SCC 54
- [5] (2011) 14 SCC 481

|NON REPORTABLE |