



2025:DHC:3667



IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 13.05.2025

+ **MAC.APP. 653/2016 & C.M. No. 43385/2016** (for permission to lead additional evidence)

UTTAR PRADESH STATE ROAD TRANSPORT CORPORATIONAppellant

Through:

versus

MEENAKSHI MADAN & ORSRespondents

Through:

Advocates who appeared in this case:

For the Petitioner : Mr. Shadab Khan, Adv.

For the Respondent : Mr. Avnish Singh, Mr. Parameesh Takkar, Ms. Richa Takkar & Mr. Aditya Vikram, Adv. for R-1 to R-4.

CORAM

HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present appeal is filed against the award dated 30.04.2016 (hereafter '**impugned award**') passed by the learned Presiding Officer, Motor Accident Claims Tribunal, Karkardooma Courts, Delhi in New MACT No. 14267/15.



2. By the impugned award, the learned Tribunal allowed the claim petition filed by the respondents, and awarded compensation of ₹57,45,228/- with interest @9% per annum from the date of filing of the claim petition.

3. Briefly stated it was claimed that on 24.01.2011, at about 4:30 PM, Vipin Madan/the deceased was travelling along with his brother-in-law and had come to Noida in a bus. It is alleged that as soon as they alighted the bus at Khoda Tiraha, a white coloured bus of UP Roadways bearing no. UP 14BT 2018 being driven by the driver in a rash and negligent manner hit the deceased from the backside, as a result of which the deceased fell down on the road and was crushed under the impact of the offending vehicle. It is alleged that owing to the forceful impact, the deceased sustained grievous injuries. Upon being brought to the hospital, the deceased was declared as brought dead.

4. Subsequently, FIR No. 89/2011 was registered under Sections 279/338/304-A of the Indian Penal Code, 1860.

5. During the course of the trial, the wife of the deceased examined herself as PW1. The statement of the Manager (HR) Motherson Sumni Infotech & Design was recorded as PW-2. Further, Virender Kumar/brother-in-law (eye-witness) was examined as PW-3. During the course of the proceedings, PW-3 was cross examined by the learned counsel for the driver. The learned Tribunal noted that nothing emerged from the testimony so as to disbelieve the version of



PW-3/eye-witness of the incident. It was noted that the driver, in his affidavit, stated that he was getting his bus filled with gas when the police reached there and told him that he had caused accident. He stated that the FIR stated that the accident occurred at 4:30 whereas the information to the police was given at 4:10 PM by PW3. He stated that if the accident occurred at 4:30, the information to the police could not have reached at 4:10 PM.

6. The learned Tribunal noted that during the course of cross-examination, the driver admitted that the gas filling station was nearby, and that the place where the accident took place, that is Khoda Tiraha, was situated on the way to the gas filling station at Noida from Kaushambi Bus Depot. It was noted that the case of the driver was not that he was not present at the spot on the day or at time of the accident. It was noted that the FIR was lodged on the same day by the brother-in-law/PW-3 who was accompanying the deceased at the time of the accident and was also an eye-witness. It was noted that the number of the offending vehicle had also been clearly mentioned in the FIR. It was noted that mere discrepancy in the time of the incident as recorded in the FIR cannot be a ground to dismiss the claim of the respondents. The learned Tribunal further noted that since the chargesheet had already been filed, the same was sufficient to prove that the driver was negligent.



7. Consequently, the learned Tribunal awarded a sum of ₹57,45,228/- to the respondents with interest @9% per annum from the date of filing of the claim petition.

8. The learned counsel on behalf of the appellant submitted that the learned Tribunal erred in allowing the claim filed by the respondents. He submitted that the appellant's driver has been falsely implicated in the present case based on the testimony of PW-3. He submitted that the learned Tribunal failed to take into account the evidence of the appellant's bus driver.

9. He submitted that merely because the place of accident was situated on the way to the Gas filling station cannot be a ground to hold that the appellant's driver was negligent. He submitted that the colour of the bus was wrongly deposed by PW-3 as white whereas the Registration Certificate of the bus clearly demonstrates that the bus was blue-white in colour. He submitted that as per the receipt No. 208625, the said bus had departed from the bus depot only at 4:30 PM and consequently it is improbable for the bus to have caused the accident at 4:30 PM when the bus itself had not departed from the depot prior to 4:30 PM.

10. *In arguendo*, the learned counsel for the appellant submitted that the learned Tribunal erred in determining the award of compensation payable to the respondents. He submitted that since the age of the deceased was above 40 years, 25% of the income of the deceased should have been taken into account while calculating the



loss of future prospects as opposed to 50% which has been taken into consideration by the learned Tribunal in terms of the judgment of the Hon'ble Apex Court in *National Insurance Company Limited v. Pranay Sethi* : 2017 16 SCC 680.

11. He submitted that the multiplier of '15' was wrongly taken into consideration by the learned Tribunal. He submitted that since the age of the victim was beyond 40 years, the multiplier of '14' should have been taken by the learned Tribunal. He submitted that the learned Tribunal erroneously awarded compensation under the head of '*loss of love and affection*' since the learned Tribunal had already awarded compensation under the head of '*loss of consortium*'. He further submitted that the rate of interest @9% is unreasonable, and should be reduced to @6%.

12. *Per contra*, the learned counsel for the respondents submitted that the learned Tribunal considered all the aspects as raised by the appellant before passing the impugned award. He submitted that the respondents, in order to establish their case, had examined PW-3/the eye-witness and his statement was consistent with the contents of the FIR. He submitted that the appellant's driver never denied that he was going from the bus depot to the gas filling station through Khoda Tiraha where the accident took place. He submitted that the appellant's claim that the accident was reported to the police station at 4:10 PM is a fabricated, and has only been made to evade liability.



13. He submitted that the only ground taken by the appellant at this stage to produce receipt No. 208625 to contend that the bus was at the depot at 4:30 PM is that the same could not be produced before the learned Tribunal due to inadvertence. He submitted that the same *prima facie* depicts that the production of such document at this stage is only an afterthought, and is aimed at evading liability. He submitted that the appellant has not given any probable reason as to why such document could not be produced before the learned Tribunal.

14. He submitted that the learned Tribunal correctly applied the multiplier of '15' based on the decision of the Hon'ble Apex Court in *Sarla Verma & Ors. v. DTC : (2009) 6 SCC 121*. He submitted that the award of compensation under other heads was also reasonable considering the beneficial nature of the legislation, and submitted that the present appeal be dismissed.

ANALYSIS

15. It is pertinent to note that the claim petition was filed by the respondents under Sections 166 and 140 of the Motor Vehicle Act, 1988 which is based on the principle of 'no-fault liability'. For an action founded on the principle of no-fault liability, the proof of rash and negligent driving of the offending vehicle is essential. It is however pertinent to note that while ascertaining the rash and negligent act of the driver, the strict principles of evidence and standard of proof as in criminal trial is not applicable in cases related to motor accident claims. The standard of proof in cases related to



motor vehicles claims is one of ‘preponderance of probabilities’ as opposed to ‘beyond reasonable doubt’ in criminal trials.

16. For this reason, Courts while assessing the claim of rashness and negligence are not required to delve into the question of non-examination of best eye witnesses as is the case in criminal trials but is required to analyse the material placed on record by both the parties to determine whether the claimant’s version is more likely or not.

17. In the present case, in order to discredit the case of the respondents, the appellant has pointed towards the discrepancy in the time of the registration of the FIR. The appellant has further drawn the attention of this Court to receipt No. 208625 to argue that the bus was at the depot at 4:30 PM, and the statement of PW-3 which led to the registration of the FIR showed that accident itself had allegedly occurred during such time. It is contended that the same casts a doubt in the case of the respondents. It is further argued that in the FIR, it has been stated that the bus is white in colour whereas the Registration Certificate of the bus showed that the bus was blue-white in colour.

18. The respondents on the other hand relied upon the testimony of PW-3 who was travelling alongwith the deceased and who deposed about the manner and occurrence of the accident. Much emphasis has been placed by the appellant that the finding of rashness and negligence of the appellant’s driver is unmerited given the discrepancies in the time of registration of FIR. It has been contended that the impugned award is purportedly based on insufficiency of



evidence regarding the involvement of the appellant's bus in the accident.

19. The appellant has sought to rely on receipt No. 208625 annexed to the present appeal to argue that the bus was at the depot at 4:30 when the accident allegedly had taken place. It is stated that the same had not been brought to the notice of the learned Tribunal due to inadvertence.

20. In the present case, PW-3 who was travelling with the deceased unequivocally deposed the number of the appellant's bus and consistently maintained the manner in which the accident had been caused. It is pertinent to note that the said witness had also been cross-examined by the learned counsel appearing on behalf of the appellant's driver before the learned Tribunal, however, no question as to the discrepancy or the manner in which the accident had occurred had been pointed out. For this reason, as rightly appreciated by the learned Tribunal, nothing had emerged from the testimony of PW-3 so as to disbelieve the case of the respondents. Minor discrepancy in the time at which the accident occurred or the colour of the bus being stated as 'white' in place of 'blue-white' in the absence of any other compelling circumstance, cannot suffice to discredit the case of the respondents.

21. It is pertinent to note except the discrepancy in the colour of the bus or the time at which the accident allegedly took place, it is not the case of the appellant that the appellant's driver had not crossed the



place of the accident on his way to the gas station at all around such time. Further, no worthy ground has been pleaded as to why the receipt no. 208625 could not be pressed before the learned Tribunal to establish the discrepancy in the time of incident. From a perusal of the record, it is borne out that the FIR was registered on the same day on which the accident had occurred.

22. Chargesheet had also been filed in the present case. This Court is further guided by the decision of the Hon'ble Apex Court in ***Ranjeet & Anr. v. Abdul Kayam Neb & Anr*** : arising out of SLP (C) No. **10351/2019** wherein it was reiterated that the filing of the chargesheet was sufficient to prove the negligence of the driver. It was further observed that even if eye-witnesses were not examined, the same would not be fatal to prove that the death of the victim had been caused due to the negligence of the bus driver.

23. Considering the aforesaid, this Court is of the opinion that the appellant has not been able to refute the negligence of the appellant's driver on the touchstone of a preponderance of probabilities. The limited question for this Court to determine, thus, is to examine whether the compensation as granted in the impugned award is in consonance with the judicial precedents.

Loss of Future Prospects

24. In the present case, the learned Tribunal has awarded loss of future prospects @50% of the actual salary of the deceased. In



accordance with *National Insurance Company Limited v. Pranay Sethi* : 2017 16 SCC 680, where the deceased has a permanent job and the age of the deceased is between the age of 40-50 years, an addition of 30% is to be made to the actual salary towards the loss of future prospects.

25. In the present case from a perusal of the Aadhar Card as well as the matriculation certificate of the deceased, it is evident that the date of birth of the deceased is 25.08.1970 and the date of the accident is 24.01.2011. It is evident that the age of the deceased was above 40 years at the time of the accident. Further, based on the deposition of PW-2, the deceased had a permanent job with annual increments and promotion at the time when the accident took place.

26. Consequently, considering the age of the deceased being between 40-50 years, and in accordance with *National Insurance Company Limited v. Pranay Sethi (supra)*, the addition of 30% of actual salary as opposed to 50% should be considered while computing future prospects.

Applicable multiplier

27. It has been argued by the learned counsel for the appellant that the learned Tribunal wrongly applied the multiplier of '15' while calculating loss of dependency. It has been contended that since the age of the deceased was above 40 years, a multiplier of '14' should have been applied.



28. It is pertinent to note that the Hon'ble Apex Court in the case of ***Sarla Verma & Ors. v. DTC (supra)*** categorised the multiplier to be used while computing loss of dependency based on the age of deceased at the time of the accident. The relevant portion is extracted as follows:

*“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 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.”*

29. In the present case, based on the matriculation certificate and the Aadhar card, the deceased was approximately 40 years and 5 months at the time when the accident took place. While the case of ***Sarla Verma & Ors. v. DTC (supra)*** specifies that a multiplier of '15' should be used when the age of the deceased is 36-40 years, and a multiplier of '14' should be used when the age of the deceased is between 41-45 years, the same is silent on the multiplier to be used when the age of the deceased is between 20-21, 30-31, 40-41 and so on.

30. It is pertinent to note that this Court in ***Bajaj Allianz General Insurance Co. Ltd. v. Meenakshi : 2012 SCC OnLine Del 3155*** and ***United India Insurance Co. Ltd. v. Neelam : 2015 SCC OnLine Del***



13797 while dealing with a similar question had applied a multiplier which corresponded to the age group that was nearer to the age of the deceased at the time of the accident. In the present case, since the deceased was approximately 40 years and 5 months, and had not completed 41 years at the time of the accident, the learned Tribunal rightly applied the multiplier of '15' while computing loss of dependency. The same, in the opinion of this Court, warrants no interference.

Loss of love and affection

31. It has been contended that the learned Tribunal erroneously awarded compensation for a sum of ₹1,00,000 when compensation for the loss of consortium had already been awarded. In the present case, the learned Tribunal awarded a sum of ₹1,00,000/- towards loss of consortium, and a further sum of ₹1,00,000/- towards loss of love and affection.

32. The Hon'ble Apex Court in the case of *United India Insurance Co. Ltd. v. Satinder Kaur* : (2021) 11 SCC 780 noted that the head of 'loss of love and affection' fell within the ambit of the conventional head of 'loss of consortium'. It was consequently noted that no compensation under the head of 'loss of love and affection' ought to be separately awarded. In the present case, since the learned Tribunal had already awarded compensation for a sum of ₹1,00,000/- towards loss of consortium, a further sum of ₹1,00,000/- towards loss of love and affection would not be payable.



Rate of Interest

33. The learned counsel for the appellant contended that the award of interest @9% by the learned Tribunal is on the higher side, and ought to be reduced to @6%.

34. It is pertinent to note that this Court in the case of *United India Insurance Company Ltd v. Smt. Mithlesh Kumari and Ors* : MAC. APP. 161/2025 had noted that the award of interest was a matter of judicial discretion, and that the same found its genesis in the forbearance of the claimants who are kept out of the money that they were entitled to at the time of filing of the claim petition. It was consequently noted that the award of @9% interest is a reasonable assessment. While this Court does not intend to set a standard for award of rate of interest, no worthy ground has been pleaded as to why the rate of interest should be reduced and brought down to @6%.

35. Consequently, in the opinion of this Court, the rate of interest as awarded by the learned Tribunal is reasonable and need not to be interfered with.

CONCLUSION

36. Keeping in view the facts and circumstances of the case, the appeal is partly allowed. The matter is remanded back to the learned Tribunal for the limited purpose of re-determining the amount of compensation by (i) addition of 30% of the actual salary of the



deceased towards loss of future prospects, and (ii) deducting the compensation awarded under the head of '*loss of love and affection.*'

37. The findings of the learned Tribunal on all other issues *inter alia* the multiplier and rate of interest shall remain undisturbed.

38. The learned Tribunal shall undertake the re-compensation expeditiously, preferably within a period of four weeks from the date of the first listing of the Claim Petition before the learned Tribunal on remand. The parties shall appear before the learned Tribunal on 19.05.2025.

39. The compensation amount so determined, on remand, shall be released in favour of the respondents in accordance with the schedule for disbursal stipulated by the learned Tribunal in the impugned award.

40. The present petition is partly allowed in the aforesaid terms.

AMIT MAHAJAN, J

MAY 13, 2025