Reportable

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 2811-2812 OF 2020
[Arising out of SLP (C) Nos.8495-8496 of 2018]

ERUDHAYA PRIYA .....APPELLANT

VERSUS

STATE EXPRESS TRANSPORT CORPORATION LTD. ....RESPONDENT

J U D G M E N T

SANJAY KISHAN KAUL, J.

1. Leave granted.

2. On the fateful day of 16.08.2011, the appellant was travelling from Chennai to Bangalore in a bus owned by the respondent State Corporation bearing registration No. TN-01-N-7531. At about 5.40 a.m., while the bus was moving on the Kolar Bangalore National Highway, it ran into a stationary lorry. The collision resulted in multiple injuries to numerous passengers

including the appellant, and caused death of the bus conductor on the spot. The appellant was rushed to R.L. Jallappa Research & Medical College Hospital, Tamak, Kolar and further treatment was administered at the Manipal Hospital, Bangalore where she remained admitted for 8 months. The injuries to the appellant were grievous including fractures in the arms and legs and she suffered a disability of 31.1% of the whole body.

3. An FIR was registered in pursuance of investigation naming the driver of the bus as an accused. Chargesheet was filed. But what is relevant is that the appellant filed a claim petition before the Motor Accident Claims Tribunal ("MACT"), Madurai under Section 166 of the Motor Vehicles Act, 1988 ("MV Act") read with Rule 3(1) of the Tamil Nadu Motor Vehicles Accident Claims Tribunal Rules, 1989 claiming a compensation of Rupees One Crore for injuries sustained in the accident. Evidence was led by both the parties and the MACT, on a perusal of the documents and oral testimonies, including the rough sketch and the chargesheet, came to the conclusion that the accident occurred due to the rash and negligent manner of driving of the bus driver of the bus owned by the respondent State Corporation and, thus, held the respondent liable to pay compensation to the appellant. In terms of the judgment dated 20.10.2014, the MACT opined that the permanent disability of 31.1% would have to be considered and applied the multiplier method to calculate the loss of earning power. Since the appellant was 23 years of age, multiplier of 17 was applied on the monthly salary of the appellant as a software engineer and the compensation was worked out for loss of earning

power to Rs. 9,27,424/. The compensation was also attributed under various heads of extra nourishment, medical expenses, physiotherapy, loss of matrimonial aspects, loss of comfort and amenities, mental agony, and pain and suffering. The total quantification of the compensation by the MACT was of Rs. 35,24,288/- payable by the respondent State Corporation along with interest @ 7.5% per annum from the date of petition till the date of realization with costs.

4. The respondent State Corporation filed an appeal against this order and the appellant filed cross objections. Both of them were decided by the impugned judgment of the High Court dated 27.10.2017 by a common order. The High Court, confirming the findings of negligence of the bus driver, reduced the compensation to Rs. 25,00,000/- primarily on the ground that the multiplier method for quantifying loss of earning power has been wrongly applied as it had not come on record as to how the injuries suffered by the appellant would have a bearing on her earning capacity as a software engineer. The interest rate was sustained.

5. The appellant has claimed before this Court that she is entitled to enhancement of compensation even over and above what was granted by the MACT and has quantified the same as Rs. 41,69,831/- under various heads along with claiming a revised interest rate @ 12% per annum.

6. We heard learned counsels for the parties. They have also filed short synopses of their respective claims and rebuttals thereof, with the appellant

enlisting the principles which can apply to her case, the law being now well settled in like cases.

7. There are three aspects which are required to be examined by us:

(a) the application of multiplier of '17' instead of '18';

The aforesaid increase of multiplier is sought on the basis of age of the appellant as 23 years relying on the judgment in *National Insurance Company Limited* v. *Pranay Sethi and Others*[1]. In para 42 of the said judgment, the Constitution Bench effectively affirmed the multiplier method to be used as mentioned in the table in the case of *Sarla Verma (Smt) and Others.* v. *Delhi Transport Corporation and Another.*[2]. In the age group of 15-25 years, the multiplier has to be '18' along with factoring in the extent of disability.

The aforesaid position is not really disputed by learned counsel for the respondent State Corporation and, thus, we come to the conclusion that the multiplier to be applied in the case of the appellant has to be '18' and not '17'.

(b) Loss of earning capacity of the appellant with permanent disability of 31.1%

In respect of the aforesaid, the appellant has claimed compensation on what is stated to be the settled principle set out in *Jagdish* v. *Mohan & Others*[3] and

1 (2017) 16 SCC 680
2 (2009) 6 SCC 121
3 (2018) 4 SCC 571

Sandeep Khanuja v. *Atul Dande & Another*[4]. We extract below the principle set out in the *Jagdish case* (supra) in para 8:

> "8. In assessing the compensation payable the settled principles need to be borne in mind. A victim who suffers a permanent or temporary disability occasioned by an accident is entitled to the award of compensation. The award of compensation must cover among others, the following aspects:
>
> **(i)** Pain, suffering and trauma resulting from the accident;
>
> **(ii)** **Loss of income including future income;**
>
> **(iii)** The inability of the victim to lead a normal life together with its amenities;
>
> **(iv)** Medical expenses including those that the victim may be required to undertake in future; and
>
> **(v)** Loss of expectation of life."
>
> [emphasis supplied]

The aforesaid principle has also been emphasized in an earlier judgment, i.e. the *Sandeep Khanuja case* (supra) opining that the multiplier method was logically sound and legally well established to quantify the loss of income as a result of death or permanent disability suffered in an accident.

In the factual contours of the present case, if we examine the disability certificate, it shows the admission/hospitalization on 8 occasions for various number of days over 1 ½ years from August 2011 to January 2013. The nature of injuries had been set out as under:

> "Nature of injury:
>
> (i) compound fracture shaft left humerus
>
> (ii) fracture both bones left forearm
>
> (iii) compound fracture both bones right forearm

4 (2017) 3 SCC 351

(iv) fracture 3rd, 4th & 5th metacarpals right hand
(v) subtrochanteric fracture right femur
(vi) fracture shaft left femur
(vii) fracture both bones left leg"

We have also perused the photographs annexed to the petition showing the current physical state of the appellant, though it is stated by learned counsel for the respondent State Corporation that the same was not on record in the trial court. Be that as it may, this is the position even after treatment and the nature of injuries itself show their extent. Further, it has been opined in para 12 of *Sandeep Khanuja case* (supra) that while applying the multiplier method, future prospects on advancement in life and career are also to be taken into consideration.

We are, thus, unequivocally of the view that there is merit in the contention of the appellant and the aforesaid principles with regard to future prospects must also be applied in the case of the appellant taking the permanent disability as 31.1%. The quantification of the same on the basis of the judgment in *National Insurance Co. Ltd. case* (supra), more specifically para 59.3, considering the age of the appellant, would be 50% of the actual salary in the present case.

(c) <u>The third and the last aspect is the interest rate claimed as 12%</u>

In respect of the aforesaid, the appellant has watered down the interest rate during the course of hearing to 9% in view of the judicial pronouncements including in the *Jagdish case* (supra). On this aspect, once

again, there was no serious dispute raised by the learned counsel for the respondent once the claim was confined to 9% in line with the interest rates applied by this Court.

CONCLUSION

8. The result of the aforesaid is that relying on the settled principles, the calculation of compensation by the appellant, as set out in para 5 of the synopsis, would have to be adopted as follows:

HEADS	AMOUNT (INR.)
LOSS OF EARNING POWER (14648*12*18*31.1/100)	9,81,978.76
TOWARDS FUTURE PROSPECTS (50% ADDITION)	4,90,989
MEDICAL EXPENSES INCLUDING TRANSPORT CHARGES, NOURISHMENT ETC.	18,46,864
LOSS OF MATRIMONIAL ASPECTS	5,00,000
LOSS OF COMFORT, AMENITIES AND MENTAL AGONY	1,50,000
PAIN AND SUFFERING	2,00,000
TOTAL	41,69,831

The appellant would, thus, be entitled to the compensation of Rs. 41,69,831/- as claimed along with simple interest at the rate of 9% per annum from the date of application till the date of payment.

9. The appeals are, accordingly, allowed with costs throughout.

10. The balance amount be transmitted by the respondent State Corporation to the appellant within a maximum period of six weeks from today.

.....J.
[SANJAY KISHAN KAUL]

.....J.
[AJAY RASTOGI]

.....J.
[ANIRUDDHA BOSE]

NEW DELHI.
JULY 27, 2020