(2002) 2 ACC 599 : (2002) 1 ACC 207 : (2002) ACJ 207

Calcutta High Court

Case No: F.M.A. No. 493 of 1999

Oriental Insurance Co. Ltd.		APPELLANT
	Vs	
Santosh Gupta and Others		RESPONDENT

Date of Decision: Aug. 10, 2001

Acts Referred:

- Motor Vehicles Act, 1988 - Section 166

Citation: (2002) 2 ACC 599 : (2002) 1 ACC 207 : (2002) ACJ 207

Hon'ble Judges: S.N. Bhattacharjee, J; Ajoy Nath Ray, J

Bench: Division Bench

Advocate: Kamal Krishna Das, for the Appellant;Ranjit Kumar Roy and Smriti Sindhu Samanta, for the Respondent

Judgement

Ajoy Nath Ray and S.N. Bhattacharjee, JJ.
The only question which falls for decision in this appeal is whether the learned Tribunal while fixing the multiplier 18 failed to appreciate the ratio of the decisions in the case of General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others, and also in the case of U.P. State Road Transport Corporation and Others Vs. Trilok Chandra and Others, .

2. The claimants/petitioners are respondents herein. They filed an application u/s 166 of the Motor Vehicles Act, 1988, for compensation on account of the death of husband/father in a motor accident.

3. The learned Tribunal relying upon the decisions cited above came to a finding that appropriate multiplier would be 18 in the facts and circumstances of the case and thereby granted a compensation to the tune of Rs. 7,20,000 along with the interest at the rate of 12 per cent per annum from the date of filing the case. Admittedly, Rs. 50,000 was

already awarded on no fault principle.

4. The present appeal has been preferred challenging the judgment of the learned Tribunal.

5. The learned advocate for the appellant submits that the learned Tribunal fixed the multiplier extremely high without appreciating the ratio of the judgments relied upon by it. According to him, the multiplier in the facts and circumstances of this case and in view of the principles laid down by the Apex Court in the above two cases cannot exceed 13.

6. The learned advocate for the respondents while supporting the judgment and the award passed by the learned Tribunal, has submitted that the multiplier should be fixed upon consideration of various factors highlighted in the judgment relied upon by the learned Tribunal and in view of that matter, there is no scope for reduction of multiplier to 13.

7. In General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others, , their Lordships after having laid down the law that multiplier method is the appropriate one for the purpose of fixation of compensation and thereby discouraging other methods of ascertaining the compensation held in the particular case that the victim who was 39 years old and the dependency was Rs. 1,400 per month and applied the multiplier of 12.

8. In the judgment of U.P. State Road Transport Corporation and Others Vs. Trilok Chandra and Others, , the victim was aged about 26 years and the multiplier which was applied was 18.

9. In the Schedule, in case of victims not exceeding 45 years, multiplier is 15 and in case of above 45 years up to 50 years, multiplier has been fixed at 13.

10. The learned advocate for the appellant has submitted that in the particular case, the multiplier should not exceed 13 and we are of the opinion that this multiplier of 13 would be quite appropriate in the facts and circumstances of the case particularly having regard to the age of the victim which is 45 years.

11. That being the position, income of the victim is undisputedly Rs. 5,000 per month which works out to Rs. 60,000 per annum, 1/3rd of the annual income being deducted as the personal expenses of the victim that amount comes to Rs. 40,000 per annum. Multiplier of 13 takes up compensation to the tune of Rs. 5,20,000.

12. We assess Rs. 5,20,000 as the compensation to be awarded in favour of the respondents.

13. The court, below awarded 12 per cent interest per annum. Even if notice is taken of reduction of interest at present considering the period when the judgment was passed,

the rate of interest granted by the learned Tribunal is maintained.

14. Accordingly, the award is modified as above and the appeal is disposed of.

15. The application for vacating the order dated 1.9.1999 is also disposed of.

16. The amount which was deposited by the appellant, has been withdrawn by the respondents and as such, the balance amount will be deposited by the appellant within one month from this date before the learned Tribunal.

17. The amount already deposited by the appellant is Rs. 3,00,000, awarded amount of Rs. 50,000 and the statutory amount of Rs. 25,000 as intimated by Mr. Das.

18. The balance sum is Rs. 1,45,000. The interest now will run only as regards the balance amount from the date of filing the application.

19. Urgent xerox certified copy of this order, if applied for, be given as expeditiously as possible.