

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 4678 of 1998

With

FIRST APPEAL No. 4677 of 1998

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

=====

1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil judge
?

=====

AJITBHAI SHANTILAL SHAH - Appellant(s)

Versus

KHETABHAI JUHAJI THAKOR & 5 - Defendant(s)

=====

Appearance :

MR SANDIP C SHAH for Appellant(s) : 1,

None for Defendant(s) : 1,

NOTICE SERVED for Defendant(s) : 2,4 - 5.

MR VIBHUTI NANAVATI for Defendant(s) : 3,

MR SHALIN N MEHTA for Defendant(s) : 6,

=====

CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 31/01/2012

ORAL JUDGMENT

1. The appellants herein have challenged the award dated 14.05.1998 passed by the Motor Accident Claims Tribunal Ahmedabad in Motor Accident Claims Petition No. 114 & 115 of 1992 so far as the Tribunal awarded only Rs. 1,33,000/- and Rs. 1,19,000/- respectively as compensation with interest and costs.

2. It is the case of the appellants that on 02.09.1991 the original claimants were travelling in a jeep bearing registration No. GJ-1T 3878. At that time, a truck bearing registration no. GRW 3421 which was being driven by the original opponent no. 1 in a rash and negligent manner came from the opposite direction and dashed with the jeep as a result of which the original claimants sustained injuries. The appellants therefore filed claim petition for compensation. The Tribunal after hearing the parties passed the aforesaid award.

3. Mr. Sandip Shah, learned advocate appearing for Ms. Jani for the appellant submitted that the appeals are being contested only on the aspect of multiplier. He submitted that the multiplier of 5 adopted by the Tribunal is on a lower side and considering the age of the deceased/injured claimant the multiplier ought to have been increased. He has relied upon a decision of the Apex Court in the case of **Sarla Verma & Ors Vs. Delhi Transport Corp. & Anr. Reported in 2009(6) SCC 121.**

4. Mr. Thomas, learned advocate appearing for Mr. Vibhuti Nanavati and Ms. Desai, learned advocates for the respondent insurance company have supported the award passed by the Tribunal. Learned advocates for the respondent have relied upon a decision of the Apex Court in the case of Rajkumar vs. Ajay Kumar and another reported in 2011(1) ACJ 1 and submitted that it is held that there may not be any need to award any compensation under the head of 'loss of future

earnings' if claimant continues in government service though he may be awarded compensation under the head of loss of amenities.

5. This Court heard the contentions advanced by both the sides and perused the papers on record. In the case of **Sarla Verma & Ors Vs. Delhi Transport Corp. & Anr. Reported in 2009(6) SCC 121** it is held as under:

“The multiplier to be used should be as mentioned in column (4) of the Table (prepared by applying Susamma Thomas, Trilok Chandra and Charlie), 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. As per the ratio laid down in the case of Sarla Verma (supra), I am of the view that, looking to the age of the claimants, the multiplier of 5 awarded in the present case is on lower side. The just and proper multiplier would be 15. Therefore the future loss of income would come to Rs.1,80,000 (Rs.1000 x 12 x 15) in both the cases.

7. Learned advocates for the respondent have relied upon the decision in the case of Raj Kumar (supra). It is required to be noted that the factum of finding of disability in both the cases is not objected by the respondents by either filing any appeal or cross objection. Therefore the factum of disability is

deemed to have been accepted by the respondents. In such an event the decision cited by the respondents shall not be helpful to them.

8. Therefore the claimants are entitled to a sum of Rs. 180000/- in both the claim petitions under the head of future economic loss. The Tribunal has already awarded Rs. 60000/- under the said head and therefore an additional amount of Rs. 120000/- is required to be awarded in both the appeals.

9. Accordingly, appeals are partly allowed. The appellants shall be entitled to an additional amount of Rs. 1,20,000/- alongwith interest at 7.5% from the date of application till realisation in each appeal. The award of the Tribunal is modified accordingly. No order as to costs.

(K.S. JHAVERI, J.)

Divya//