

CASE NO.:
Appeal (civil) 2046-2047 of 2008

PETITIONER:
MOBEEN BEGUM AND ORS

RESPONDENT:
BHUPESH SINGH AND ANR

DATE OF JUDGMENT: 12/03/2008

BENCH:
S.B. SINHA & P.P. NAOLEKAR

JUDGMENT:
JUDGMENT
O R D E R

CIVIL APPEAL NO. 2046-47 OF 2008
[Arising out of SLP(C) No. 8474/2007]

Delay condoned.
Leave granted.

The heirs and legal representatives of deceased Mohd. Ahmed are before us, praying for enhancement of the amount of compensation for his death arising out of a motor accident which took place on 3.9.2003.

The deceased was riding on a motorcycle. It dashed with a jeep for which a criminal case was instituted. A claim petition was filed by the appellants herein claiming compensation for a sum of Rs.25,95,000/-.

The Motor Accident Claims Tribunal awarded a total sum of Rs. 6 lakhs.

On the premise that the income of the deceased at the time of accident was Rs. 5,000/- per month, multiplier of 15 was applied by the learned Tribunal.

An appeal was preferred thereagainst by the respondent-Insurance Company. Before the High Court, a plea was raised that the deceased was also negligent in riding the motorcycle and having regard to the fact that the same contributed to the accident, the quantum of compensation paid in favour of the claimants should be held to be on the higher side. The said contention was rejected by the High Court.

The High Court having regard to the materials brought on records was of the opinion that application of the multiplier of 15 was improper. It applied multiplier of 12, and in terms thereof the amount of compensation was quantified at Rs. 4,49,500/-. Interest on the said sum was allowed at the rate of 6% per annum.

Quantification of compensation in a case of this nature would depend upon the facts and circumstances of each case. Ordinarily, the Appellate Court should not interfere with the amount of compensation assessed by the Tribunal but there may be some exceptional case. Even in terms of the Second Schedule appended to the Motor Vehicles Rules, a multiplier of 16 could have been applied. Having regard to the age of the deceased a multiplier of 15 could have been applied and if the same had not been done by the Tribunal, there was no reason as to why the High Court should have interfered therewith.

For the reasons aforementioned, we allow this appeal in part and direct that an award be prepared applying the multiplier of 15 instead of 12. No costs.