

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 17th August, 2012

+ **MAC. APP. 881/2012**

UNITED INDIA INSURANCE COMPANDY LTD..... Appellant

Through: Mr. A.K.De, Adv with
Mr. Rajesh Dwivedi, Adv.

versus

DAVINDER @ DEVINDER SINGH & ORS. Respondents

Through Nemo.

CORAM:

HON'BLE MR. JUSTICE G.P.MITTAL

J U D G M E N T

G. P. MITTAL, J. (ORAL)

CM APPL.13993/2012 (Exemption)

Exemption allowed, subject to all just exceptions.

The Application is allowed.

MAC. APP. 881/2012

1. The Appeal is directed against a judgment dated 15.05.2012 passed by the Motor Accident Claims Tribunal (the Claims Tribunal) whereby a compensation of ₹11,04,568/- was awarded for the death of Smt. Suresh Devi, a housewife aged 46 years, in a motor vehicle accident which took place on 23.08.2010.
2. It is urged by the learned counsel for the Appellant Insurance Company that some of the deceased's legal representatives were grown up and that the question of award of compensation was not rightly addressed in the

case of *Royal Sundaram Alliance Insurance Co. Ltd. v. Master Manmeet Singh & Ors.* MAC. APP. 590/2011, decided on 30.01.2012.

3. I would not agree.
4. In *Master Manmeet Singh* this Court noticed following judgments of the Supreme Court:-

(i) *General Manager, Kerala State Road Transport Corporation, Trivandrum v. Susamma Thomas (Mrs.) and Ors.* (1994) 2 SCC 176,

(ii) *National Insurance Company Limited v. Deepika & Ors.*, 2010 (4) ACJ 2221,

(iii) *Amar Singh Thukral v. Sandeed Chhatwal*, ILR (2004) 2 Del 1,

(iv) *Lata Wadhwa & Ors. v. State of Bihar & Ors.*, (2001) 8 SCC 197,

(v) *Gobald Motor Service Ltd. & Anr. v. R.M.K. Veluswami & Ors.*, AIR 1962 SC 1,

(vi) *A. Rajam v. M. Manikya Reddy & Anr.*, MANU/AP/0303/1988,

(vii) *Morris v. Rigby* (1966) 110 Sol Jo 834 and

(viii) *Regan v. Williamson* 1977 ACJ 331 (QBD England),

and laid down the principle for determination of loss of dependency on account of gratuitous services rendered by a housewife. Para 34 of the judgment in *Master Manmeet Singh* (*supra*) is extracted hereunder:-

“34. To sum up, the loss of dependency on account of gratuitous services rendered by a housewife shall be:-

- (i) *Minimum salary of a Graduate where she is a Graduate.*
- (ii) *Minimum salary of a Matriculate where she is a Matriculate.*
- (iii) *Minimum salary of a non-Matriculate in other cases.*
- (iv) *There will be an addition of 25% in the assumed income in (i), (ii) and (iii) where the age of the homemaker is upto 40 years; the increase will be restricted to 15% where her age is above 40 years but less than 50 years; there will not be any addition in the assumed salary where the age is more than 50 years.*
- (v) *When the deceased home maker is above 55 years but less than 60 years; there will be deduction of 25%; and when the deceased home maker is above 60 years there will be deduction of 50% in the assumed income as the services rendered decrease substantially. Normally, the value of gratuitous services rendered will be NIL (unless there is evidence to the contrary) when the home maker is above 65 years.*
- (vi) *If a housewife dies issueless, the contribution towards the gratuitous services is much less, as there are greater chances of the husband's re-marriage. In such cases, the loss of dependency shall be 50% of the income as per the qualification stated in (i), (ii) and (iii) above and addition and deduction thereon as per (iv) and (v) above.*
- (vii) *There shall not be any deduction towards the personal and living expenses.*
- (viii) *As an attempt has been made to compensate the loss of dependency, only a notional sum which may be upto ₹ 25,000/- (on present scale of the money value) towards loss of love and affection and ₹ 10,000/- towards loss of consortium, if the husband is alive, may be awarded.*
- (ix) *Since a homemaker is not working and thus not earning, no amount should be awarded towards loss of estate."*

5. An SLP being SLP (C) No.19711/2012 filed against the above referred judgment in *ICICI Lombard General Insurance Company Limited v. Shiv Kumar & Ors.*, was dismissed by the Supreme Court by an order dated 24.07.2012.
6. The compensation awarded is in consonance with the principles laid down in *Master Manmeet Singh* does not call for any interference.
7. The Appeal is devoid of any merit; the same is accordingly dismissed.
8. The statutory deposit of ₹25,000/- shall be refunded to the Appellant Insurance Company.
9. Pending Applications also stand disposed of.

(G.P. MITTAL)
JUDGE

AUGUST 17, 2012

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