$~19 & 18

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

Date of decision: 15th December, 2011

\+ **MAC APP. 79/2010**

SUDESH CHOPRA ..... Appellant
Through Ms. Kamlakshi Singh, Advocate

versus

SURENDER PAL SINGH & ORS ..... Respondents
Through Mr. S.M. Puri, Advocate for Respondent No.1.
Ms. Kimi Brara, Advocate for Respondent No.2

\+ **MAC.APP. 205/2010**

SURENDER PAL SINGH ..... Appellant
Through Mr. S.M. Puri, Advocate

versus

SUDESH CHOPRA & ORS ..... Respondents
Through Ms. Kamlakshi Singh, Advocate for Respondent No.1.
Ms. Kimi Brara, Advocate for Respondent No.2 and proxy counsel on behalf of Respondents No.3 & 4.

CORAM:
HON'BLE MR. JUSTICE G.P.MITTAL

J U D G M E N T

G. P. MITTAL, J. (ORAL)

1. These are two cross-Appeals i.e. MAC APP No.79/2010 preferred by Sudesh Chopra widow of the deceased Dharambir Chopra is limited to the extent that the Appellant was entitled to the interest on the amount of compensation granted to her. The interest is claimed @ 15% per annum.
2. In the cross-Appeal MAC APP No.205/2010, the Appellant Surender Pal Singh being the owner of the Truck No.DEL-3768 says that the deceased was aged 55 years 04 months and 17 days. Thus, he was due to retire just after 02 years and 07 months (the age of superannuation at the relevant time was 58 years) and thus, he should have been awarded the salary which he would have got only upto the period of his retirement.
3. The Tribunal while computing the loss of dependency, took the deceased's income to be Rs.7135/- per month as per his salary certificate, deducted 50% towards the deceased personal living expenditure and applied the multiplier according to the

deceased's age. While applying the multiplier method, the age of retirement of a person is normally not taken into account. There may be a young employee working in a private sector or government sector having 30-35 years of service. He cannot be given the multiplier of the residue years in service. In the case of ***Kerala State Road Transport Corporation v. Susamma Thomas (1994) 2 SCC 176***, it was held as under:

> *"The multiplier method is logically sound and legally well-established method of ensuring a 'just' compensation which will make for uniformity and certainty of the awards. A departure from this method can only be justified in rare and extraordinary circumstances and very exceptional cases. There are some cases which have proceeded to determine the compensation on the basis of aggregating the entire future earnings for over the period the life expectancy was lost, deducted a percentage therefrom towards uncertainties of future life and award the resulting sum as compensation. This is clearly unscientific. For instance, if the deceased was, say 25 years of age at the time of death and the life expectancy is 70 years, this method would multiply the loss of dependency for 45 years- virtually adopting a multiplier of 45- and even if one-third or one-fourth is deducted therefrom towards the uncertainties of future life and for immediate lump sum payment, the effective multiplier would be between 30 and 34. This is wholly impermissible. We are, aware that some decisions of the High Courts and of the Supreme Court as well have arrived at compensation on*

> *some such basis. These decisions cannot be said to have laid down a settled principle. They are merely instances of particular awards in individual cases. So the proper method of computation is the multiplier-method. Any departure, except in exceptional and extraordinary cases, would introduce inconsistency of principle, lack of uniformity and an element of unpredictability for the assessment of compensation."*

4. It cannot be assumed that a government employee would cease to work on his superannuation. Many a government employees get gainful employment in the private sector at much higher salary than what was being received by them with the government. Some may even get re-employment in the government sector. These are however, uncertainties and, therefore, multiplier method which has been consistently held to be logically sound is well-established for ensuring just compensation.
5. In the case of ***Sarla Verma & Ors. v. Delhi Transport Corporation, (2009) 6 SCC 121*** the Supreme Court went into detail as to the selection of multiplier. As per ***Sarla Verma*** (supra), the proper multiplier when the deceased was more than

55 years and 07 months would be “9”. It was rightly selected by the Tribunal. So, no fault can be found with the award of the compensation.

6. The Tribunal denied interest to the claimants from the date of filing of the Petition till the date of the award on the ground that the claimant was responsible for the delay in disposal of the petition. The Trial Court held as under:

> *“Petitioner did not observe diligence in taking steps for effecting service on the respondents initially. It is also noted that, petition was dismissed in default on 16.5.05. An application of restoration was moved on 22.10.05 and it was restored on 28.01.06. On 19.9.07 it was observed by Ld. Predecessor that, notice of the application for the restoration of the petition was issued to R1 only, through as per amended petition there was four respondents, thereafter order was passed to issue notice to all the respondents. Subsequently also, petitioner was not taking steps and on 30.05.08 counsel for petitioner stated that, petitioner was not contacting him, in the totality of facts and circumstances the petitioner, is not entitled to any interest as delay in disposal of the case is attributable to her only.*

7. I have perused the trial court record. It is true that the Appellant contributed to the delay in disposal of the claim petition. At the same time, the Appellant was not solely responsible for the

delay. Apart from normal time taken in disposal, there was some delay attributable to the Respondent. In the circumstances, the Appellant would be entitled to interest on the award amount @ 7.5% per annum for a period of three years only till the disposal of this Appeal and thereafter till the time the amount of interest is deposited. The Respondent Surender Pal Singh, owner of the offending vehicle (the vehicle was not insured) is directed to deposit the amount within six weeks.

8. In view of the above discussion, Appeal MAC APP No.205/2010 is hereby dismissed.
9. Appeal MAC APP No.79/2010 is allowed in above terms. No costs.

(G.P. MITTAL)
JUDGE

DECEMBER 15, 2011
pst