

2023 SCeJ 585 = PLRonline 496605 (SC) = (2023-4)212 PLR 380 (SC)

SUPREME COURT OF INDIA

Before : Justice Hrishikesh Roy & Justice Sanjay Karol.

The NEW INDIA ASSURANCE COMPANY LIMITED - Appellant(s)

Versus

ANAND PAL & ors. - Respondents.

SLP (Civil) No. 7805 of 2022

Motor Vehicles Act, 1988 (59 of 1988), Section 166 - Brothers and sisters - The siblings of the victim were older and were married with their own respective families - In the absence of evidence to the contrary, brothers and sisters will not be considered as dependents as because they will either be independent and earning, or married, or be dependent on the father - There are two family registers - Would indicate that the victim resided separately - Unlikely they were dependent on the victim's earnings particularly when the victim resided separately - Compensation awarded to the married siblings set aside

Cases referred:

1. (2009-3) PLR 22 (SC), *Sarla Verma v. Delhi Transport Corporation*

Mr. Aditya Kumar, Adv., Mr. C. George Thomas, AOR, Ms. Prachi Pandey, Mr. Vikalp Mudgal, AOR, for the parties

ORDER

(04.12.2023) - Leave granted.

2. Heard Mr. Aditya Kumar, learned counsel appearing for the appellant (Insurance Company). Also heard Mr. Ashok Kumar Sharma, learned senior counsel appearing for the respondents (claimants).

3. It is pointed out on behalf of the Insurance Company that the respective claimant Nos. 1, 7 and 11 - Anand Pal, Satish Kumar and Sanjay Kumar, who are brothers of the deceased victim, could not be said to be dependent, on the earnings of the victim. Mr. Kumar points out that the three are older married brothers with their respective children and although occasional help could be provided by the deceased for his family members, that cannot alter their status to that of dependents, entitled to claim compensation.

4. In support of his contention, Mr. Kumar relies on *Sarla Verma (Smt.) & Ors. v. Delhi Transport Corporation & Anr.* (2009-3) PLR 22 (SC), (2009) 6 SCC 121, wherein this Court held as under:

“31. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent(s) and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependant. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependants, because they will either be independent and earning, or married, or be dependent on the father.”

5. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependents as because they will either be independent and earning, or married, or be dependent on the father.

6. On the above, Mr. Ashok Kumar Sharma, learned senior counsel refers to the evidence to point out that although deceased was having separate residence, he used to frequently visit his siblings and also have meals together with the brothers. Accordingly, it is argued that the brothers cannot be said to be separate from the victim.

7. On the above, it is necessary for us to be conscious that there are two family registers. This would indicate that the victim resided separately as was noted by the Motor Accident Claims Tribunal. The siblings of the victim were older and were married with their own respective families. In these circumstances, they being dependent on the victim's earnings is unlikely particularly when the victim resided separately.

8. Looking at the above, the Tribunal and the High Court should not have considered the three older married siblings, to be dependent on the deceased victim. The compensation awarded to the married siblings is therefore found to be unmerited. The appeal is accordingly allowed by setting aside the impugned award of the Motor Accident Claims Tribunal as upheld by the High Court under the impugned judgment.

9. Pending application(s), if any, shall stand closed.