

**Savitri Devi and ors. Vs. Ram Kishan and ors.**

**Savitri Devi and ors. Vs. Ram Kishan and ors.**

**SooperKanoon Citation :** [sooperkanoon.com/848792](http://sooperkanoon.com/848792)

**Court :** Delhi

**Decided On :** Apr-26-2010

**Judge :** Shiv Narayan Dhingra, J.

**Acts :** Motor Vehicle Act - Section 110A

**Appeal No. :** F.A.O. No. 136 of 1991

**Appellant :** Savitri Devi and ors.

**Respondent :** Ram Kishan and ors.

**Advocate for Def. :** Salil Paul, Adv. for R-3 and 6

**Advocate for Pet/Ap. :** Varun Kumar and; Navneet Goyal, Adv.

**Disposition :** Appeal dismissed

**Judgement :**

**Shiv Narayan Dhingra, J.**

1. By present appeal, the appellants who are legal heirs of the deceased have assailed the quantum of compensation awarded by the Tribunal and have prayed for enhancement of compensation.

2. Brief facts relevant for the purpose of deciding this appeal are that deceased Jai Ram Subhani aged around 28 years died in an accident on 23rd October, 1983. At

the time of accident, he was unmarried and was a partner of M/s. Relu Ram Sons, Katra Rathi, Chandni Chowk, Delhi. The compensation claim was filed under Section 110A of Motor Vehicle Act by Smt. Savitri Devi, mother of the deceased and brothers and sisters of the deceased. It is undisputed fact that all brothers and sisters of the deceased were major and were independently working. The learned Tribunal in the award observed that since nothing has come on record to establish that other legal heirs were dependent on the deceased, he, therefore, considered that except mother none else was a necessary party to the proceedings. While determining the compensation, the learned Tribunal considered the income of the deceased on the basis of income-tax returns being filed by the firm. The deceased was a partner in the firm to the extent of 30 per cent and on the basis of income-tax returns, the Tribunal came to the conclusion that the income of the deceased was Rs. 9,000/- to Rs. 11,000/- per annum. The Tribunal therefore, took the dependency of the petitioner, that is, mother at Rs. 500/- per month. The age of mother of the deceased on the date of her examination was around 58 years. The Tribunal considered that a multiplier of 15 should be applied. The Tribunal, therefore, awarded a compensation of Rs. 90,000/- (Rs. 500 x 12 x 15) and considered it just and reasonable. The Tribunal awarded interest @ 8 per cent per annum from the date of filing of petition till the order and 12 per cent from the date of order till realization.

3. Learned Counsel for the appellant submitted that the Tribunal had wrongly considered the dependency of mother at Rs. 500/- per month. The Tribunal ignored the testimony of mother who stated that deceased was paying Rs. 1,000/- per month to her. It is further stated that the Tribunal did not take into account future prospects. Since the deceased was partner of the firm, future prospects upto 50 per cent of his income should have been added. It is also submitted that the Tribunal did not grant any compensation on behalf of estate, love, affection, etc.

4. I consider while considering the compensation claim, the best evidence regarding income of deceased are the income-tax returns filed by the deceased since income-tax returns are an admission of the income of the deceased made when there was no inkling of any misfortune happening. A bald statement made by

a witness about the income cannot be considered as basis for computing compensation when the income-tax returns filed by the deceased are on record.

5. I, therefore, find that the Tribunal rightly took into account the income-tax returns as the basis of income. The Tribunal had taken dependency of Rs. 500/- for the mother. The income of the deceased was Rs. 1,000/- per month on an average. Since the deceased was unmarried, 50 per cent was rightly considered as the amount being spent by the deceased on himself. So, the Tribunal rightly considered as Rs. 500/- the amount of dependency of the mother. The Tribunal applied multiplier of 15 in this case. The mother of the deceased was aged around 51 years and the age of the deceased was 28 years. The multiplier approved by the Supreme Court in Sarla Varma's case is 17 however, since the deceased was unmarried and mother of the deceased was quite old and the father had already died these factors were to be kept in mind. I, therefore, consider that the Tribunal rightly applied the multiplier of 15 in this case. As far as future prospects are concerned, since the deceased was a partner in a partnership firm, there are possibilities of ups and downs of the business, the Tribunal, therefore, rightly did not consider future prospects as the future prospects in business can be bright and bleak both. The definite future prospects are there only in case of service persons who receive regular increment and periodical wage revision or promotion.

6. I, therefore, find that the amount awarded by the Tribunal in this case was as per law. I find no infirmity in the order of the Tribunal. The appeal is hereby dismissed.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**