

N. Sivammal and Others

Vs

Managing Director, Pandian Roadways Corporation and Another

Civil Appeal No. 4025 of 1984

(D. A. Desai, Ranganath Misra JJ)

24.09.1984

ORDER

DESAI, J. -

1. Special leave granted.

2. One Muthukrishnan was working as a process server in the District Court at Madurai in Tamil Nadu State. While he was proceeding on his way on November 15, 1978 for serving summons and was passing by Madurai-Melur Road near the Court house, one R. Chandrasekaran, the driver driving a passenger bus No. TMN 5130 belonging to Pandian Roadways Corporation, Madurai a public sector corporation rashly and negligently, dashed against Muthukrishnan and injured him. Injured was admitted in the hospital and he died 19 days after the accident. The widow of Muthukrishnan and her sons and daughters, appellants in this appeal moved a petition to recover compensation for the loss suffered by them. In the petition the claim was for a round sum of Rs. 66,000 (Rupees sixty-six thousand) made up of various items. The Motor Accident Claims Tribunal held that accident was attributable to the rash and negligent driving of the bus by its driver and the respondents are liable to pay compensation. The Tribunal computed the compensation at Rs. 40,500 and made an award directing the respondents to pay the balance of the amount of Rs. 30,500 after taking credit for Rs. 10,000 which the dependents of the deceased had received under the Family Benefit Scheme. The award thus directed the respondents to pay Rs. 30,500.

3. Pandian Roadways Corporation, the owner of the bus involved in the accident filed an appeal being appeal against Order No. 384 of 1980 in the High Court of Judicature at Madras. This appeal came up for hearing before a Division Bench of the High Court. The learned Judges of the High Court affirmed the finding that the driver was rash and negligent in driving bus and rash and negligent driving of the bus was the proximate cause of the accident in which late Muthukrishnan suffered the injury as a result of which he died. The High Court also confirmed the finding that the Pandian Roadways Corporation is liable to pay the compensation for the loss suffered by the appellants on account of the death of Muthukrishnan.

4. Thereafter, the High Court proceeded meticulously to examine every item of compensation included in the award. The High Court held that award of Rs. 5000 under the head mental agony suffered by the claimants as a result of the death of the deceased cannot legally be sustained. This is only the different way looking at the same thing which is legally permissible. Muthukrishnan lived for 19 days since the accident and he was throughout under a shadow of death. He had suffered severe injuries. He must have suffered continuous pain and suffering, suffered by the deceased. Therefore, the amount of Rs. 5000 which the High Court held inadmissible, is legitimately

admissible under another head and therefore by changing the head we restore the amount of Rs. 5000 awarded by the Tribunal.

5. The High Court next proceeded to evaluate the pensionary benefits which the widow, appellant 1 would enjoy. Appellant 1 as the widow of the deceased is entitled to pension at the rate of Rs. 120 p.m. for a period of seven years whereafter the amount will taper down. The High Court evaluated the monetary benefit of pension and reduced the amount of compensation by Rs. 10,000. We are unable to appreciate this reduction. We find no justification for it. In fact, the High Court overlooked the most obvious fact that the monthly pay packet of the deceased was Rs. 355. His receipt per year would be Rs. 4260. Keeping in view the age of the deceased at the time of his death and taking the modicum of 10 years' purchase the amount of compensation would work out at Rs. 42,600 to which the customary figure of Rs. 5000 for loss to the estate has to be added. Thus under these two heads the corporation would be liable to pay Rs. 47,600 apart from pain and sufferings. Therefore, the High Court was clearly in error in further reducing the compensation as awarded by the Tribunal. Therefore, we allow this appeal, set aside the judgment of the High Court and restore the award. The appeal is allowed with costs quantified at Rs. 5000.

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