

Dr K. R. Tandon (Mrs)

Vs

Om Prakash and Another

Civil Appeals Nos. 15 to 17 of 1983

(M.M. Punchhi, M.K. Mukherjee JJ)

16.01.1996

ORDER

1. These three appeals are by the claimants who received injuries in a motor accident. There was a head-on collision between the offending car owned and driven by the first respondent and insured with the second respondent with the car in which the injured persons were travelling. That car was owned by Dr (Mrs) K. R. Tandon - one of the occupants, the person who suffered the most, as compared to others, both in terms of injuries as also pecuniary loss. When the matter was put to issue before the Motor Accidents Claims Tribunal diversifying the claims under various heads, the Tribunal awarded a sum of Rs 1,60,907.36 to Dr (Mrs) Tandon; a sum of Rs 26,741 to her injured husband and their two minor injured children and a sum of Rs 720 to the injured maidservant who was in the employment with the Tendons. The High Court, on appeals by the respondents, reduced the award in respect of Mrs Tandon to Rs 50,157.36; that of her husband and minor children to Rs 4500 but maintained the award in respect of the maidservant.

2. The negligence of the first respondent and the liability of the second respondent as the insurer are beyond dispute at the present juncture. The only arena is to figure out what should be the correct compensation awardable to the claimants. For the purpose, we have carefully gone through the judgment under appeal. Though we may not like to differ with much of the reasoning of the High Court towards causing alteration in the sums awarded by the Tribunal, still we gather an impression that the High Court has taken too rigid and strict a view in reducing the compensation. In particular, we take into account the reduction caused in the sum awarded to Dr (Mrs) Tandon. Under the head "non-pecuniary loss", the High Court has overlooked the fact that the extent of injuries sustained by her on her ribs, spine and the hip joint, and the treatment she had to undergo in order to be up and mobile, would have definitely caused loss of enjoyment of life thenceforth, besides pain and suffering. She could never have been the same after treatment. This account alone deserved a portion of the award made by the Tribunal to be sustained. And as it is, in such matters, enough of guesswork comes to play a vital part and decision-making ultimately ends up in the rule of thumb. Adopting those yardsticks, we should think that Dr (Mrs) Tandon should have been awarded a sum of Rs 1 lakh in all, in the totality of circumstances. Likewise, we should have thought that the husband of Mrs Tandon and their two minor children should have got a cumulative award of Rs 10,000 towards the injuries they had suffered and the maidservant too should have got a sum of Rs 1200 as compensation for the injuries suffered by her. We, accordingly, modify the three awards in the manner above-indicated.

3. The Tribunal had awarded interest at the rate of 6% per annum from the date of the award but the High Court chose to curb it to 3% per annum. In the first place, we do not appreciate the reasoning of the High Court to reduce the rate of interest. We also see no justification by the courts below of

not having awarded interest, whatever be its rate, from the date of the application. The way inflation has galloped in the past two decades and the value of the rupee eroded, we see no justification why interest at the rate of 12% per annum was not awardable in the instant matter. We, therefore, order that the interest on the sums modifyingly awarded by us, shall be payable from the date of the application itself and at the rate of 12% per annum. Payments which might have been made by the respondents, be adjusted. The Tribunal is required to work this out so that the correct figure is available to the parties for determining their rights and liabilities. The parties may approach the Tribunal for fixing the figure payable and the sum so ascertained after making adjustments, shall be paid over to the claimants within three months of the determination.

4. The appeals stand partially allowed to the above extent.

5. No costs.