

SUPREME COURT OF INDIA

Ramilaben Chinubhai Parmar

Vs.

National Insurance Co.

C.A.Nos.6091-6092 of 2011

(P.Sathasivam CJI., Ranjan Gogoi and N.V.Ramana JJ.)

23.04.2014

JUDGMENT

N.V. RAMANA, J.

1. The appellants herein are the claimants who filed a petition before the Motor Accident Claims Tribunal, Ahmedabad claiming an amount of Rs. 40.00 lakhs as compensation on the ground that the sole breadwinner of their family, who was 46 years old, had died in a road accident. The Tribunal, relying upon the oral as well as documentary evidence, took the income of the deceased at Rs.15,000/- p.m. and considering his age at 46, applied the multiplier 12. In addition to that, the Tribunal granted Rs.50,000/- as conventional amount, and finally awarded Rs.22,10,000/- as compensation to the appellants with interest @ 9% p.a.

2. Aggrieved thereby, the respondent-Insurance Company preferred First Appeal No. 301 of 2003 before the High Court. The appellants herein also filed Cross Objection No. 107 of 2006 in the said appeal seeking enhancement. After hearing the Insurance Company as well as claimants, the High Court determined the net salary of the deceased as Rs.14,000/- p.m. by applying the multiplier 8, arrived at the compensation towards loss of dependency as Rs.13,44,000/-. It further added Rs.25,000/- for loss of estate and Rs.15,000/- for loss of consortium to the widow of the deceased and Rs.5,000/- towards funeral expenses. The High Court, thus, in all, awarded a total amount of Rs.13,90,000/- as compensation with 7.5% interest. Thus, the High Court

by the impugned order reduced the compensation from Rs.22,10,000/- to Rs.13,90,000/- and reduced the rate of interest from 9% p.a. to 7.5% p.a.

3. Now aggrieved by the order of the High Court the claimants-appellants filed these appeals for enhancement of compensation.

4. It is mainly contended by the learned counsel for the appellants that the earning capacity of the deceased was Rs.35,000/- p.m. as per the salary certificate and other documents, but the High Court has without any reason, reduced the compensation amount by fixing Rs.14,000/- as the monthly salary of the deceased. Similarly, the High Court has not even considered the future prospects of the deceased who died at the young age of 46 years and the High Court has ignored the fact that 12 years service was left for the deceased on the date of death.

5. On the other hand, learned counsel for the Insurance Company supported the order of the High Court and submitted that there is no reason for this Court to interfere with the order of the High Court.

6. We have heard learned counsel for the parties and perused the material before us. It is evident from the order of the Tribunal as well as Salary Certificate filed as (Annexure P-2) the deceased was getting a gross salary of Rs.14,103.77 ps. p.m. apart from benefits like GPF, D.A., and other allowances. It is also stated therein that the deceased was having another 12 years of service and there is a chance of revision of pay scales and getting one more promotion. Taking all these into consideration, the Tribunal arrived at a conclusion that the salary of the deceased would be Rs.35,000/- p.m. at the time of his retirement and Rs.25,000/- p.m. as his potential earning capacity on the date of his death. After deducting Rs.10,000/- towards personal expenses, his liability towards taxation etc., the net contribution of the deceased towards his dependents was arrived at Rs.15,000/- p.m., applied the multiplier 12 taking into consideration the age of the deceased and finally awarded an amount of Rs.22,10,000/- as total compensation payable with interest @ 9% p.a. The High Court without properly appreciating the factum of the young age of the deceased and without taking future prospects of the deceased into consideration has reduced the compensation from Rs.22,10,000/- to Rs.13,90,000/- and the rate of interest from 9% p.a. to 7.5% p.a.

7. Even though we are not convinced with the calculation and reasoning given by the Tribunal, but keeping in view the peculiar facts and circumstances of the case, where the deceased died at an early age of 46 years, had 12 more years of service, would have got promotions, resulting in hike in his pay and emoluments, we feel that ends of justice would be met if the potential earning capacity of the deceased is fixed at Rs.30,000/- p.m. Accordingly, we fix the potential earning capacity of the deceased per month at Rs.30,000/- instead of Rs.25,000/- as fixed by the Tribunal. After deducting 1/3rd portion from Rs.30,000/- towards personal expenses, the dependency benefit for the appellants would come to Rs.20,000/- and the multiplier applicable is 12 taking into consideration the age of the deceased. Accordingly, the loss of dependency is fixed at Rs. 20,000 x 12 x 12 = Rs.28,80,000/-. In addition to that, the appellants are entitled to Rs. 50,000/- as conventional amount as granted by the Tribunal. Thus, the appellants would be entitled to a total compensation of Rs. 29,30,000/- with interest @ 7.5% p.a.

8. The appeals are accordingly allowed. The orders passed by the Courts below are set aside. There shall be no order as to costs.