

Sujatha and Others Vs. Rajagopal and Another

Sujatha and Others Vs. Rajagopal and Another

SooperKanoon Citation : sooperkanoon.com/1187244

Court : Chennai Madurai

Decided On : Nov-23-2016

Judge : S.M. Subramaniam

Appeal No. : CMA (MD) No. 1503 of 2006

Appellant : Sujatha and Others

Respondent : Rajagopal and Another

Judgement :

(Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 10.09.2003 made in MCOP.No.92 of 1995 on the file of the Motor Accident Claims Tribunal, Sub Court, Padmanabhapuram.)

JUDGMENT

1. It is the unfortunate case of fatal accident took place on 06.11.1994 around 01.45 p.m on Trivandrum-Nagercoil road. The legal heirs of the deceased filed an application seeking compensation before the Motor Accident Claims Tribunal, Sub Court, Padmanabhapuram, and the Tribunal considering the facts and the circumstances of the case, awarded Rs.1,67,000/- as total compensation with interest at 9% per annum. Challenging the award, the appellants/claimants preferred this appeal, seeking enhancement of compensation.

2. Learned counsel for the appellants contended that the deceased was a practicing Advocate in the Courts at Nagercoil and Thuckalay and was having 14 years of Bar experience at the time of death and was having a reasonably fair practice and was earning sufficient amount and maintaining his family. Such being the occupational details of the deceased, the Tribunal awarded very meagre amount of compensation by fixing the meagre monthly income as Rs1,250/-. Hence, the monthly income fixed by the Tribunal was erroneous and highly inadequate and not commensurate with the nature of profession and the experience of the deceased person. This apart, the Tribunal failed to award any compensation towards loss of love and affection and the amount granted under the head loss of consortium is also very less and requires enhancement.

3. Learned counsel for the respondent opposed the grounds of appeal, by stating that the accident took place in the year 1994 and during the relevant point of time, monthly income fixed by the Tribunal was in order and requires no re-consideration. This apart, the counsel for the respondent objected to the contention of the appellant, by stating that the deceased Advocate was attached with his Seniors' office and therefore, during the relevant point of time, he would have received the Stipend and not the salary, which would be very meagre.

4. Such contention of the counsel for the respondent cannot be accepted, in view of the fact that the deceased person was having a standing of 14 years in the Bar and hence a reasonable and fair monthly income ought to have been fixed by the Tribunal and the Tribunal without considering the fairness and the principles of just compensation, fixed the meagre monthly salary at Rs.1,250/- which cannot be accepted. Hence, this Court is inclined to fix the monthly income of the deceased at Rs.3,000/-. After deducing $\frac{1}{3}^{\text{rd}}$ towards the personal expenses and applying '15' multiplier as per Sarla Verma's case, the loss of income works out to Rs.3,60,000/-. Considering the age of the wife of the deceased at the time of accident, namely, 32 years, Rs.5,000/- awarded towards loss of consortium is enhanced to Rs.10,000/- and Rs.2,000/- awarded towards funeral expenses is enhanced to Rs.5,000/-. The Tribunal erred in not awarding any sum towards loss of love and affection to the claimants. Accordingly, Rs.10,000/- each to the appellants, totalling Rs.30,000/-, is awarded towards loss of love and affection and

the total compensation is thus, modified as hereunder:-

Loss of income	=	Rs.3,60,000/-
Loss of love and affection	=	Rs. 30,000/-
Loss of consortium	=	Rs. 10,000/-
Funeral expenses	=	Rs. 5,000/-

Total	=	Rs.4,05,000/-
(Less) Amount awarded by the Tribunal	=	Rs.1,67,000/-

Enhanced compensation	=	Rs.2,38,000/-

6. In the result, the appellants/claimants are entitled to enhanced compensation of Rs.2,38,000/- with interest at 6% per annum from the date of petition to till the date of deposit, in addition to the award of the Tribunal. The 2nd respondent is directed to deposit the modified compensation of Rs.4,05,000/- with proportionate accrued interest and costs to the credit of the claim petition, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the major claimants are permitted to withdraw the same in the ratio apportioned by the Tribunal, through RTGS, by filing necessary applications before the Tribunal. The share of the 2nd appellant/minor shall be deposited in a Nationalised Bank in Fixed Deposit till he attains majority and on attaining majority, it is for him to approach the Tribunal to withdraw his share.

7. Learned counsel for the appellant filed a Memo dated 23.11.2016 stating that the 3rd appellant/Sarojini Ammal died on 29.08.2008 and the 1st appellant/Sujatha is the legal heir of the deceased 3rd appellant. The said fact is recorded.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com