Sarasamma vs T.M.Soopy

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SooperKanoon Citation : sooperkanoon.com/1356450

Court : Kerala

Decided On : Jun-30-2023

Judge : Honourable Mr.Justice C. Jayachandran

Appeal No. : MACA/1105/2010

Appellant : Sarasamma

Respondent : T.M.Soopy

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C. JAYACHANDRAN FRIDAY, THE 30TH DAY OF JUNE 2023/9TH ASHADHA, 1945 MACA NO.1105 OF 2010 AGAINST THE AWARD DATED 19.11.2009 IN OP(M.V) 975/2007 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, VADAKARA APPELLANTS/CLAIMANTS:

1 SARASAMMA, AGED 82 YEARS, PETTAPARMABATH HOUSE TODANUR P.O, VATAKARA 673 108. 2 SHOBHA, AGED 37 YEARS, W/O.JAYAPRAKASHAN PETTAPARAMBATH HOUSE, TODANUR P.O,, VATAKARA 673 108. 3 PRAJOSH, AGED 15 YEARS, S/O.JAYAPRAKASHAN, REP.THROUGH MOTHER SHOBHA, AGED 37, W/O.JAYAPRAKASHAN,PETTAMPARAMBATH (H), TODANUR

P.O,VATAKARA 673 108. 4 PRAJISHA, AGED 10 YEARS, D/O.JAYAPRAKASHAN, REP.THROUGH MOTHER SHOBHA, AGED 37 YEARS, W/O.JAYAPRAKASHAN, PETTAMPARAMBATH (H), TODANUR (P.O),VATAKARA 673 108. BY ADV SRI.P.M.HABEEB

RESPONDENTS/RESPONDENTS:

1 T.M.SOOPY, AGED 49 YEARS, S/O.MAMMU, THERUVATH HOUSE, ATHIYODI P.O,, KURACHNDE, PIN - 673 527, (RC OWNER OF THE VEHICLE NO.KED 5083 JEEP) 2 MOOSA, AGED 50 YEARS, S/O.ABDULLA CHERIYA MUKKOLAKKAL (H) KOTTAKAL, IRINGAL P.O, VATAKARA,PIN 673 521. 3 THE NEW INDIA ASSURANCE CO.LTD, TRIPURI BUILDING, EAST NADAKKAVU, CALICUT 673 011., POLICY NO.760 21.05.07), (INSURER OF VEHICLE NO.KED 5083 JEEP) BY ADVS. JOHN JOSEPH VETTIKAD C.JOSEPH JOHNY LAL K.JOSEPH

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 27.03.2023, THE COURT ON 30.06.2023, DELIVERED THE FOLLOWING: C.JAYACHANDRAN, J -------------------- M.A.C.A.No.1105 of 2010 ------------------------ Dated this the 30th day of June, 2023

J U D G M E N T

The claimants before the Motor Accident Claims Tribunal, Vatakara in O.P(M.V).No.975/2007 are the appellants. They are the legal heirs of one Jayaprakashan, who succumbed to the injuries in an accident which took place on 25.03.2007. The appeal focuses on enhancement of compensation amount awarded by the Tribunal.

2. Heard Sri.P.M.Habeeb, learned counsel for the appellants and Sri.John Joseph Vettikad, learned standing counsel for the third respondent/insurance company. Perused the records.

3. Learned counsel for the appellants first invited the attention of this Court to the income reckoned by the Tribunal. As against Rs.5,000/- claimed, the Tribunal has reckoned an income of Rs.3,000/-. Learned counsel also pointed out that the income in terms of Ramachandrappa v. Manager, Royal Sundaram Alliance Insurance Company Ltd. [(2011) 13 SCC 236] for the year 2007 is Rs.6,000/- and the same is liable to be taken, uninfluenced by the income claimed in the O.P. This submission was seriously opposed by the learned counsel for the insurance company. It was pointed out that at best, Rs.5,000/- can be taken even if Ramachandrappa supra is to be followed, dehors the fact that no proof has been adduced in support of the income.

4. In this regard, this Court is of the opinion

that, taking into account the purpose of the beneficial legislation, this Court need not pin down the appellants/claimants to the niceties of pleadings. The Act contemplates grant of 'just and reasonable compensation'. The authoritative pronouncement in Ramachandrappa supra enables grant of Rs.6,000/-. If that be so, the income of the deceased need not be confined to Rs.5,000/- claimed, once it is shown that, he is entitled to

Rs.6,000/-. Therefore, this Court is inclined to take the income of the deceased at Rs.6,000/- per month.

5. The second contention raised by the learned counsel is with respect to consortium. Going by the authoritative pronouncement in National Insurance Co. Ltd. v. Pranay Sethi [2017(4) KLT 662 (SC)],

all the four legal heirs are entitled to Rs.40,000/- each. Instead of the same, the Tribunal has taken Rs.10,000/- for the wife under the head consortium and Rs.53,000/- under the head love and affection. As regards this submission, learned counsel for the insurance company submitted that, if consortium in terms of Pranay Sethi supra is to be given, then Rs.10,000/- given to the wife and Rs.53,000/- under the head love and affection are to be obliterated. The contention is well conceived and the same is accepted.

6. The next head is with respect to the funeral expenses, where the Tribunal has granted Rs.10,000/-, as against the entitled sum of Rs.15,000/- going by Pranay Sethi supra. The claim is only to be accepted and allowed. The same is the

situation with respect to loss of estate, whereunder the claimants are entitled to Rs.15,000/-. The claimants are also entitled to 10% enhancement to the compensation under the heads 'funeral expenses' and 'loss of estate' as provided in Pranay Sethi supra. Finally, under the head 'future prospects', 25% of income is liable to be taken going by Pranay Sethi. This contention is also accepted.

7. In the result, this M.A.C.A. is allowed and the

compensation amount payable to the claimants/appellants is reworked and indicated in the tabular statement here below. Sl. Head of Claim Amount Total amount after No. awarded by enhancement in

> the Tribunal appeal 1 Loss of Dependency 3,16,800 6,33,600* 2 Consortium 10,000 1,76,000 3 Love and Affection 53,000 [44,000 x 4] 4 Medical Bills and 36,860 36,860 Ambulance Bills 5 Funeral Expenses 10,000 16,500 [15000+15000x10/100] 6 Loss of Estate - 16,500 [15000+15000x10/100] 7 Future Prospects - 9,90,000** Total 4,26,660 18,69,460 Amount enhanced = Rs.18,69,460 - Rs.4,26,660/ = Rs.14,42,800/

* [6,000 x 12 x 11 x 4/5] ** [6,000 x 12 x 11 x 125/100]

8. The Insurance Company shall pay interest for the

amount awarded by the Tribunal at the rate directed in the impugned award; and for the enhanced amount, at the rate of 7% from the date of petition. If any amount has already been paid, the same shall be granted set off.

9. The claimant shall produce the details of the

Bank account before the Insurance Company/Tribunal within two months from the date of receipt of a certified copy of this judgment and the amount shall be transferred to the Bank account directly

through NEFT/RTGS mode, within a period of one month thereafter. If the Bank account is not given within the time stipulated, it is made clear that, no interest shall run on the enhanced amount after the period stipulated by this Court. However, if the Insurance Company fails to deposit the amount, as directed, interest on the enhanced amount shall also run at the rate ordered by the Tribunal from the date of petition.

The appeal is allowed to the above extent. Sd/- C.JAYACHANDRAN JUDGE Sbna/