

Ponnukuttan vs P a Devassy

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Court : Kerala

Decided On : Aug-30-2019

Judge : Honourable Mr. Justice P.B.Suresh Kumar

Appeal No. : MACA/458/2015

Appellant : Ponnukuttan

Respondent : P a Devassy

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR FRIDAY,
THE 30TH DAY OF AUGUST 2019 / 8TH BHADRA, 1941 MACA.No.458 OF 2015
AGAINST THE AWARD IN OPMV 36/2008 DATED 04-11-2013 OF MOTOR
ACCIDENTS CLAIMS TRIBUNAL , PALAKKAD APPELLANTS/PETITIONERS: 1
POONNUKUTTAN, AGED 54 YEARS, S/O. KITTA, RESIDING AT
KOOOTHUMADAM HOUSE, PADINJARETHARA, VALKANGY, NENMARA P.O.,
PALAKKAD DISTRICT. 2 MALINI, AGED 51 YEARS, W/O. POONUKUTTAN,
RESIDING AT KOOOTHUMADAM HOUSE, PADINJARETHARA, VALKANGY,
NENMARA P.O., PALAKKAD DISTRICT. BY ADV. SRI.BABY MATHEW
RESPONDENTS/RESPONDENTS:

1 P A DEVASSY, S/O. ANTONY, AGED 46 YEARS, PLAKKAL HOUSE, JEW STREET, NORTH PARAVOOR, ERNAKULAM - 683 513. (R.C. OWNER OF TEMPO VAN REG. NO. KL- 7/AS- 1805) 2 SUMESH, S/O. PURUSHAN, AGED 40 YEARS, VAZHAYUPARAMBU HOUSE, PARAYAKKAD, NORTH PARAVOOR, ERNAKULAM - 683 513 (DRIVER TEMPO VAN REG. NO. KL-7/AS-1805) 3 NATIONAL INSURANCE COMPANY LIMITED 1ST FLOOR, MUNICIPAL SHOPPING COMPLEX, MAIN ROAD, NORTH PARAVOOR, ERNAKULAM - 683 513, (INSURER OF TEMPO VAN REG. NO. KL-7/AS-1805) R1, R3 BY ADV. SRI.P.JACOB MATHEW THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY

HEARD ON 30.08.2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -----

JUDGMENT

The claimants in a proceedings for compensation before the Motor Accidents Claims Tribunal have come up in this appeal challenging the inadequacy of the quantum of compensation granted by the Tribunal.

2. One Ajinendran aged 21 years died in a motor

accident took place on 24.11.2006. It is stated in the claim petition that he was working in the army. His parents were the claimants in the proceedings. A sum of Rs.22,00,000/- was the claim made in the proceedings. As against the said claim, the Tribunal has granted to the claimants a sum of Rs.12,01,568/- by way of compensation. It is aggrieved by the inadequacy of the said compensation that the claimants have come up in this appeal.

3. Heard the learned counsel for the parties.

4. The Tribunal has accepted the salary that was

being drawn by the deceased namely Rs.8,901/- as his salary and computed compensation on that basis, applying the multiplier '14' having regard to the age of the mother of the deceased. In the place of the multiplier '14', the Tribunal should have applied the multiplier '18' having regard to the age of the deceased. Had it been so, applying the same formula, the compensation payable for loss of dependency would have come to Rs.14,41,962/- ($\text{Rs.8901} \times 150 / 100 \times 12 \times 1/2 \times 18$). As the Tribunal has granted only a sum of Rs.11,21,568/- towards compensation under that head, the claimants would be entitled to an additional compensation of Rs.3,20,394/-.

5. It is trite that a conventional amount has to be

granted in all cases of death towards compensation for pain and suffering. As no amount has been granted by the Tribunal, I deem it appropriate in the facts and circumstances of the case to grant to the claimants a sum of Rs.10,000/- by way of compensation under that head.

6. In the light of the decision of the Apex Court in

Pranay Sethi, and having regard to the fact that the accident in the instant case is one that took place in the year 2006, I am of the view that the Tribunal should have granted Rs.12,500/- towards compensation for loss of estate and Rs.12,500/- towards funeral expenses. As the Tribunal has granted Rs.30,000/- under these two heads, Rs.5,000/- granted under the said head is excessive.

8. Coming to the compensation for loss of love

and affection, in the light of the decision of the Apex Court in Magma General Insurance Co. Ltd. v. Nanu Ram and others (2018 ACJ 2782) and having regard to the fact that the accident in the instant case is one that took place in the year 2006, I am of the view that the parents of the deceased are entitled to a sum of Rs.35,000/- each. As the claimants were granted only a sum of Rs.50,000/- under that head, they are entitled to a sum of Rs.20,000/- by way of additional compensation.

9. The compensation granted by the Tribunal under the remaining heads appear to be in order.

10. In short, the claimants are entitled to Rs.3,45,394/- by way of additional compensation. In the result, the appeal is allowed granting to the

claimants a sum of Rs.3,45,394/- by way of additional compensation. Needless to say, the claimants will be entitled to interest for the additional compensation at the rate of 7.5%. It is clarified that all other directions contained in the impugned

award will stand. The parties will be at liberty to move the Tribunal for directions as regards deposit of the additional amount of compensation granted and for the disbursal thereof. It is made clear that the claimants will not be entitled to interest for the additional compensation granted for the period of delay in filing appeal, viz, 592 days, as ordered by this court.

Sd/- P.B.SURESH KUMAR, JUDGE. YKB

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