

Usha and Others vs the Partner,M/S.Reliant Logistik & Othe

Usha and Others vs the Partner,M/S.Reliant Logistik & Othe

SooperKanoon Citation : sooperkanoon.com/1914460

Court : Kerala

Decided On : Aug-27-2019

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

Appeal No. : MACA/2411/2010

Appellant : Usha and Others

Respondent : The Partner,M/S.Reliant Logistik & Othe

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR
TUESDAY, THE 27TH DAY OF AUGUST 2019 / 5TH BHADRA, 1941
AGAINST THE JUDGMENT AND AWARD DATED 28-05-2010 IN O.P
(MV) NO.223/2005 OF MOTOR ACCIDENT CLAIMS TRIBUNAL,
THRISSUR APPELLANTS/PETITIONERS :- 1 USHA W/O LATE
RAVINDRAN 2 SANDHYA D/O.LATE RAVINDRAN 3 SUNITH T.R @
SANEESH, S/O.LATE RAVINDRAN 4 SUMATHI WO.LATE
UNNICHEKKAN ALL APPELLANTS RESIDING AT THEKKETHARA
HOUSE, MARATHAKKARA, THRISSUR DISTRICT. BY ADV.
SRI.T.C.SURESH MENON RESPONDENTS/RESPONDENTS :- 1 THE
PARTNER, M/S.RELIANT LOGISTIKS, COCHIN-682 020. 2 SAIJAN

K.K. S/O.BHARGAVI KALLIKKATTU HOUSE, AROOR, CHERTHALA,
ALAPPUZHA DISTRICT - 688 524. 3 THE NATIONAL INSURANCE CO.
LTD. DIVISIONAL OFFICE, M.G.ROAD, COCHIN - 682 011. THIS
MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 27.08.2019, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING: M.A.C.A No.2411 of 2010

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 Ravindran aged 44 years died in a motor

accident took place on 07.11.2004. It is stated in the claim petition that he was a head load worker. His mother, wife and two children were the claimants in the proceedings. A sum of Rs.8,50,000/- was the claim made in the proceedings. As against the said claim, the Tribunal has granted to the claimants a sum of Rs.4,00,000/- 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. Though it is stated in the claim petition that the

deceased was earning a sum of Rs.6,000/- per month, in the absence of supporting evidence, the Tribunal has reckoned the monthly income of the deceased only at Rs.3,000/- for the purpose of computing the compensation payable to the claimants for loss of dependency.

5. In the absence of any evidence in support of

the plea as regards the income of the deceased, in the light of the decision of the Apex Court in Ramachandrappa v. Manager, Royal Sundaram Alliance Insurance

Company Limited, [(2011) 13 SCC 236], where the Apex Court has reckoned the monthly income of a similarly placed person at Rs.4,500/- in the context of the accident took place in the year 2004, I am of the view that the monthly income of the deceased in the instant case could have been certainly reckoned by the Tribunal at Rs.4,500/-, in the context of the accident took place in 2004. In the light of the decision of the Apex Court in National Insurance Company Ltd v. Pranay

Sethi [2017(4) KLT 662 (SC)], as the dependants of the deceased were four in number, one fourth of the income has to be deducted towards personal expenses, and as the deceased was aged above 40 and below 50, 25% of the income reckoned has to be added towards future prospects for arriving at the multiplicand while computing the compensation for loss of dependency. As the deceased was aged 44, the multiplier to be applied for the said purpose is '14'. If compensation for loss of dependency is arrived at on that basis, the same would come to Rs.7,08,750/-(Rs.4500x12x3/4x125/100x14). As the Tribunal has granted only a sum of Rs.3,60,000/- towards compensation

under that head, the claimants would be entitled to an additional compensation of Rs.3,48,750/-.

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

granted in all cases of death towards compensation for pain and suffering. The Tribunal has granted a sum of Rs.5,000/- under that head. Having regard to the facts and circumstances of the case, according to me, Rs.10,000/- would have been the appropriate compensation payable to the claimants under that head. The claimants are, therefore, entitled to a sum of Rs.5,000/- by way of additional compensation.

7. 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 2004, I am of the view that the Tribunal should have granted Rs.35,000/- to the wife of the deceased towards compensation for loss of consortium. Similarly, in the light of the said decision, the Tribunal should

have granted to the claimants Rs.12,500/- towards compensation for loss of estate and Rs.12,500/- towards funeral expenses. The Tribunal has granted only a sum of Rs.25,000/- under those heads. The claimants are, therefore, entitled to a further sum of Rs.35,000/- under those heads.

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), having regard to the fact that the accident in the instant case is one that took place in the year 2004, I am of the view that the mother of the deceased are entitled to a sum of Rs.35,000/- and children of the deceased are entitled to a sum of Rs.40,000/- each. As the claimants were granted only a sum of Rs.10,000/- under that head, they are entitled to a sum of Rs.1,05,000/- by way of additional compensation.

9. It is seen that the Tribunal has not granted any

compensation to the claimants separately towards transportation and towards damage to clothing and articles. Having regard to the facts and circumstances of the case, I deem it appropriate to grant a sum of Rs.2,000/- under those two heads.

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

11. In short, the claimants are entitled to Rs.4,95,750/- by way of additional compensation. In the result, the appeal is allowed granting to

the claimants a sum of Rs.4,95,750/- 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. Sd/- P.B.SURESH KUMAR, JUDGE. SMA