

Sathee Devi and anr. Vs. P. Maluk Mohammed and Anrs.

Sathee Devi and anr. Vs. P. Maluk Mohammed and Anrs.

SooperKanoon Citation : sooperkanoon.com/727332

Court : Kerala

Decided On : Jun-21-1989

Reported in : 1990ACJ83

Judge : U.L. Bhat and ; P. Krishnamoorthy, JJ.

Appeal No. : M.F.A No. 182 of 1989

Appellant : Sathee Devi and anr.

Respondent : P. Maluk Mohammed and Anrs.

Advocate for Pet/Ap. : S. James Vincent, Adv.

Disposition : Appeal dismissed

Judgement :

U.L. Bhat, J.

1. Appellants herein filed a claim petition before the Motor Accidents Claims Tribunal, Trivandrum claiming a sum of Rs. 2,50,000/- as compensation for the death of the first appellant's husband and the second appellant's father in a motor vehicle accident. The Tribunal awarded a sum of Rs. 1,29,520/- with interest in their favour. Being dissatisfied with the quantum of compensation awarded, they have preferred this appeal.

2. First appellant's husband, John P. John, while riding bicycle was hit by a lorry which came from the opposite direction. He was removed to the Medical College Hospital on the same day, namely, 18.12.1984 and died on 27.12.1984. He was working in a bank. At the time of accident, his total monthly emoluments amounted to Rs. 1,663.25 and he was aged 41 years. He had sixteen more years of service left in the bank. Second appellant was born a few months after the accident. The Tribunal estimated that he would have contributed half of his monthly income, namely, Rs. 830/- for the maintenance of his wife and child. Loss of dependency was calculated on the basis of loss of Rs. 830/- per month for a period of 16 years and deducting one-fourth for uncertainties in life, compensation was fixed on that account at Rs. 1,19,520/-. Rs. 10,000/- was awarded for loss of marital consortium and love and affection.

3. Learned counsel for the appellants would contend that on the date of accident deceased was on a graded pay and during the next sixteen years he would have received increments periodically and the Tribunal should have proceeded on the basis of monthly emoluments he would have drawn on the eve of retirement. For this purpose, learned counsel placed reliance on a decision of the Supreme Court in *Manjushri Raha v. B.L. Gupta* 1977 ACJ 134 (SC).

4. We are not unmindful of the fact that the Tribunal should have also considered the future increments he would have derived in the course of his remaining period of service. But we do not think on that ground we should interfere because in certain other respects the Tribunal has been over-liberal towards the appellants. The Tribunal fixed sixteen years as multiplier though the normal prevailing bank rate is over 10 per cent. The result is that at the end of sixteen years, the appellants would still be left with a substantial amount of the fund that the court fixed as compensation. The Tribunal also was not fully justified in awarding Rs. 10,000/- as marital consortium and loss of love and affection for the child. If the future increments had been reckoned, the monthly dependency would have been slightly higher than Rs. 830/-, but that has been more than offset by the multiplier adopted by the Tribunal. In these circumstances, we find no ground to interfere. The appeal is accordingly dismissed.

