

defendants has to fail and accordingly appeal is dismissed by confirming the judgment and decree of the Trial Court, however, without costs.

Appeal dismissed.

SUPREME COURT OF INDIA

Before: N.V. Ramana & Mohan M. Shantanagoudar, JJ.

Civil Appeal No.11495 of 2018

Decided on: 30.11.2018

(Arising from Special Leave to Appeal (C)
No.22334/2017)

Ramla and others

Appellants

Versus

National Insurance Company Limited and others

Respondents

A. Motor Vehicles Act, 1988 (59 of 1988), Section 166 -- Deceased having wife, two minor children, aged father – Dependency assessed as 60% after deducting 40% for personal expenses – Compensation order to be given with 8% interest from the date of filing claim petition.

(Para 5)

B. Motor Vehicles Act, 1988 (59 of 1988), Section 166, 168 -- Just compensation – Less compensation claimed – Court can award more than claimed – Held, there is no restriction that the Court cannot award compensation exceeding the claimed amount -- A “just compensation” is one which is reasonable on the basis of evidence produced on record -- It cannot become timebarred -- Courts are duty bound to award just compensation.

(Para 6)

Cases referred:

1. Nagappa v. Gurudayal Singh (2003) 2 SCC 274.
2. Magma General Insurance v. Nanu Ram, (2018) SCC Online SC 1546 (Civil Appeal No. 9581 of 2018, decided on 18.09.2018).
3. Ibrahim v. Raju (2011) 10 SCC 634.

JUDGMENT

MOHAN M. SHANTANAGODAR, J. –

Leave granted.

2. The claimants are before this Court seeking further enhancement of compensation from Rs. 21,53,000/- awarded by the High Court of Kerala at Ernakulam. By the impugned judgment, the High Court enhanced the compensation from Rs.11,83,000/- to Rs.21,53,000/-.

3. In the accident that occurred on 10.05.2008, the deceased Ismail succumbed to death due to grievous injuries. The wife (about 22 years), two children (aged about 3 years and 9 months respectively) and aged father

(about 90 years of age) of the deceased moved a claim petition before the Motor Accidents Claim Tribunal, Vatakara (hereinafter referred to as the 'Tribunal') seeking a total compensation of Rs. 25,00,000/-. The Tribunal, while assessing the monthly income of the deceased at Rs.12,000/- for the purpose of compensation and while deducting half amount towards personal expenses, awarded a total compensation of Rs.11,83,000/- with interest at the rate of 7.5% per annum from the date of filing the claim petition till its realization.

4. The respondent—Insurance Company filed an appeal before the High Court against the award of the Tribunal, whereas the claimants filed cross objections seeking enhancement in compensation. As mentioned supra, the High Court awarded a sum of Rs.9,70,000/- as an additional compensation, i.e., in addition to the compensation of Rs.11,83,000/awarded by the Tribunal. While doing so, the High Court took into consideration the salary certificate (Exhibit A6) of the deceased issued by Al- Rawabi Food Centre, Doha disclosing a salary of 2500 Qatar Riyals, which is equivalent to Rs.30,000/- per month. The salary certificate was attested/counter signed by the Assistant Consulate Officer, Embassy of India, Doha, which also discloses that the deceased was an employee of AlRawabi Food Centre, Doha during the relevant point of time. In our considered opinion, the assessment of the income of the deceased by the High Court was just and proper.

5. Though we find that the overall compensation awarded by the High Court is just and reasonable in respect of all the heads (except under the head of loss of dependency), in our considered opinion, the High Court has faulted in deducting 2/3rd of the total income towards the personal expenses of the deceased, while quantifying the compensation. Taking into consideration the high cost of living at Doha, as observed by the High Court as well as the fact that the deceased was having his wife, two minor children and aged father as dependants and as there is no other earning member in the family of the deceased, in the facts and circumstances of the case, a deduction of 40% of the salary for the personal expenses would be appropriate for the purpose of quantifying compensation. Taking into consideration such factors including the factor of uncertainties in the job in that Country as well as uncertainty in staying back in the said country for a longer period and in the absence of any material to show as to for how many years the deceased was having contract to serve, the claimants are entitled to a total compensation of Rs. 28,00,000/- inclusive of the compensation awarded by the High Court, with interest at the rate of 8% per annum from the date of filing the claim petition till its realization. The said amount is just and reasonable under the facts and circumstances of the case.

6. Though the claimants had claimed a total compensation of Rs.25,00,000/- in their claim petition filed before the Tribunal, we feel that the compensation which the claimants are entitled to is higher than the same as mentioned supra. There is no restriction that the Court cannot award compensation exceeding the claimed amount, since the function of the Tribunal or Court under Section 168 of the Motor Vehicles Act, 1988 is to award "just compensation". The Motor Vehicles Act is a beneficial and welfare legislation. A "just compensation" is one which is reasonable on the basis of evidence produced on record. It cannot be said to have become timebarred. Further, there is no need for a new cause of action to claim an enhanced amount. The Courts are duty bound to award just compensation. (See the

judgments of this Court in the cases of (a) *Nagappa v. Gurudayal Singh*¹ [(2003) 2 SCC 274.] (b) *Magma General Insurance v. Nanu Ram*² [(2018) SCC Online SC 1546 (Civil Appeal No. 9581 of 2018, decided on 18.09.2018).] (c) *Ibrahim v. Raju*³ [(2011) 10 SCC 634.].

7. Accordingly, the following order is made:

The claimants are entitled to a total compensation of Rs. 28,00,000/- along with interest at the rate of 8% from the date of filing the claim petition till its realization, as awarded by the High Court, which shall be paid by the respondent—Insurance Company, within a period of two months from the date of receipt of a copy of this order. Needless to say that the amount of compensation, if any, already paid to the claimants, shall be deducted out of the enhanced compensation.

8. Disposed of in the aforesaid terms.

Order accordingly.

PUNJAB AND HARYANA HIGH COURT

Before: Sudhir Mittal, J.

CRM-M No. 36869 of 2018

Decided on: 30.10.2018

Anil Chanana

Petitioner

Versus

M/s Gyani Ram Ruliya Ram

Respondent

Alongwith

*CRM-M-7101-2018, Anil Chanana v. Rakesh Chand,
CRM-M-12958-2018, Anil Chanana v. M/s Harish Chand-Chander Parkash,
CRM-M-12745-2018, Anil Chanana v. M/s Gaba Trading Company Rania,
CRM-M-47235-2017, Anil Chanana v. M/s Moti Ram Om Parkash,
CRM-M-20167-2018, Anil Chanana v. M/s Gopi Chand Kewal Krishan,
CRM-M-20168-2018, Anil Chanana v. M/s Sarkaria Traders,
CRM-M-20170-2018 Anil Chanana v. M/s Moti Lal & Sons,
CRM-M-20171-2018, Anil Chanana v. M/s Sanjay Kumar and Company,
CRM-M-20247-2018, Anil Chanana v. M/s Ajay Kumar & Company,
CRM-M-20169-2018, Anil Chanana v. M/s Ramji Dass Madan Lal,
CRM-M-22640-2018, Anil Chanana v. M/s Mohar Singh Paramjeet Singh,
CRM-M-22956-2018, Anil Chanana v. M/s Chanan Singh & Sons,
CRM-M-22962-2018, Anil Chanana v. M/s Lucky Trading Company,
CRM-M-22967-2018, Anil Chanana v. M/s Chanan Singh Malook Singh,
CRM-M-35973-2018, Anil Chanana v. M/s Anil Trading Co.,
CRM-M-36010-2018, Anil Chanana v. M/s Lachi Ram Shiri Bhagwan,
CRM-M-36011-2018, Anil Chanana v. M/s Madhur Trading Co.,*