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Supreme Court of India
N.V. Ramana,J. Mohan M. Shantanagoudar,J.
Ramla v. National Insurance Co. Ltd
CIVIL APPEAL NO.11495 OF 2018
(Arising from Special Leave to Appeal (C) No.22334/2017)
30 11.2018

Motor Vehicles Act, 1988, Section 166, 168 – Loss of dependency – Working in Doha – Looking at high cost of living at Doha, 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 – Deduction of 40% of the salary for the personal expenses would be appropriate instead of deduction of 2/3 rd taken by the High Court – 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/ with interest at the rate of 8% per annum.

Motor Vehicles Act, 1988, Section 168 – Just compensation – 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 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.

JUDGMENT

MOHAN M. SHANTANAGOUDAR, 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 AlRawabi 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 2/3 rd 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, (2020-1)197 PLR 326 (SC), (2003) 2 SCC 274. (b) Magma General Insurance v. Nanu Ram,(2019-1)193 PLR 213 (SC), (2018) SCC Online SC 1546 (Civil Appeal No. 9581 of 2018, decided on 18.09.2018). (c) Ibrahim v. Raju, (2012-3)167 PLR 102 (SC), (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.