2022 SCeJ 1067

Supreme Court of India

JUSTICE M.R. SHAH, JUSTICE KRISHNA MURARI

Sumathy & Ors. Vs. Babu and Anr.

CIVIL APPEAL NOS. 6609-6610 OF 2022

19th September 2022

Motor Vehicles Act, 1988 S. 166 – Deceased – Aged 48/52 years – Accident 2002 – Mason and aged 48/52 years – Income taken at Rs. 3,000/- per month – While awarding loss of dependency, future prospects and rise in income ought to have been considered – 25% of Rs. 3,000/- per month is considered towards future prospects and rise in income and thereafter loss of dependency is determined, it can be said to be just compensation.

Petitioner Counsel: SANAND RAMAKRISHNAN, Respondent Counsel: VIRESH B. SAHARYA

JUDGEMENT

M.R. SHAH, J.

1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 29.02.2016 passed by the High Court of Kerala at Ernakulam in MACA No. 1376 of 2006 and order dated 22.06.2016 passed in RP No. 461 of 2016 in MACA No. 1376 of 2006, the original claimants have preferred the present appeals.

2. In a vehicular accident which occurred on 22.01.2002, the husband of the first appellant died. At the relevant time, he was working as mason and aged 48/52 years. The appellants – original claimants – widow and other dependent children filed a claim petition before the Motor Accident Claim Tribunal, Preumbavoor (hereinafter referred to as the 'Tribunal'). The Tribunal awarded a total sum of Rs. 3,05,000/- under different heads along with interest @ 7% per annum from the date of filing the claim petition. While determining the compensation, the Tribunal considered the income of the deceased at Rs. 1,800/- per month and thereafter after deducting 1/3rd towards personal expenditure and applying the relevant multiplier awarded the amount of compensation towards loss of dependency at Rs. 1,87,200/-.

2.1 In an appeal before the High Court, by the impugned judgment and order, the High Court has awarded the compensation towards loss of dependency at Rs. 2,97,000/- considering the income of the deceased at Rs. 3,000/- per month and after deducting 1/3rd towards the personal expenditure of the deceased. Thus, the High Court has enhanced the amount of compensation to Rs. 3,92,000/- under different heads along with interest @ 9% per annum from the date of filing of the claim petition.

2.2 Feeling aggrieved and dissatisfied with the impugned judgment and order/s passed by the High Court in awarding the future economic loss – loss of dependency at Rs. 2,97,000/- considering the income of the deceased at Rs. 3,000/- per month, the original claimants have preferred the present appeals.

3. Having heard learned counsel for the respective parties at length and assuming that the income of the deceased at the relevant time is considered at Rs. 3,000/- per month, in that case also, while awarding loss of dependency, future prospects and rise in income ought to have been considered. We are of the opinion that in the facts and circumstances of the case, if 25% of Rs. 3,000/- per month is considered towards future prospects and rise in income and thereafter loss of dependency is determined, it can be said to be just compensation. Thus, the claimants shall be entitled to a total sum of Rs. 4,25,000/- under different heads along with interest @ 9% per annum as awarded by the High Court from the date of filing the claim petition till its realization.

4. In view of the above and for the reasons state above, the present appeals are partly allowed. The impugned judgment and order/s passed by the High Court is/are modified to the extent enhancing the amount of compensation to Rs. 4,25,000/- under different heads from Rs. 3,92,000/- awarded by the High Court, along with interest @ 9% per annum from the date of filing the claim petition till its realization. Now, respondent No. 2 – Insurance Company is directed to pay/deposit the balance enhanced amount of compensation along with interest as above with the Tribunal, within a period of eight weeks from today and on such deposit, the same be paid to appellant No.1 – widow of the deceased by an account payee cheque. The present appeals are partly allowed to the aforesaid extent. However, in the facts and circumstances of the case, there shall be no order as to costs.