

MANAGING DIRECTOR, TNSTC

v.

SUGUNA AND ORS.

(Civil Appeal No. 395 of 2009)

JANUARY 23, 2009

**[DR. ARIJIT PASAYAT AND ASOK KUMAR
GANGULY, JJ.]**

Motor Vehicles Act, 1988 – s.166 – Death of 24 year old person in motor accident – Claim for compensation – Claim that deceased was getting salary of Rs.2,500/- p.m. – No evidence to substantiate the claim – MACT fixed the notional income of deceased at Rs.1,500/- p.m. and awarded Rs.1.83 lacs as compensation – On appeal, High Court fixed the income of deceased at Rs.2,500/- per month and awarded compensation of Rs.4.05 lacs – Held: High Court did not indicate any reason to fix the income at Rs.2,500/- p.m. though it deducted one-third for personal expenses – In the peculiar facts and circumstances of the case, amount of compensation fixed at Rs.3 lacs to be paid with interest at the rate of 6% p.a. from the date of filing of claim application.

Pursuant to death of a 24 year old person in a motor accident, his dependants filed claim petition under s.166 of the Motor Vehicles Act, 1988. The accident took place in 1998. The appellant insurance company denied its liability on the ground that the accident occurred because of negligence on part of the deceased. The Claims Tribunal fixed the notional income of the deceased at Rs.1,500/- per month and on that basis awarded a sum of Rs.1,83,500/- as compensation alongwith 6% interest from the date of filing of the Claim Petition. Questioning the quantum of compensation, respondents filed appeal before the High Court. The High Court fixed the income of deceased at Rs.2,500/- per month and awarded

A compensation of Rs.4,05,500/- with interest at the rate of 6% as was directed by the Tribunal.

In appeal to this Court, the order passed by the High Court was challenged on the ground that it was practically non-reasoned.

Partly allowing the appeal, the Court

HELD: In the normal course in a case where an appeal has been disposed of by a practically non-reasoned order, the matter is remitted for fresh consideration. But on facts, considering the passage of time and the limited nature of the controversy, this Court found it expedient to go through the records. Though it was claimed that the deceased was getting salary of Rs.2,500/- p.m., there was no evidence adduced to substantiate the claim. The MACT noticed that no evidence was adduced to substantiate the income and, therefore, notional income of Rs.1,500/- p.m. was fixed. One-third was deducted for personal expenses. The High Court did not indicate any reason to fix the income at Rs.2,500/- p.m. though it deducted one-third for personal expenses. In the aforesaid background, the amount of compensation is fixed at Rs.3 lacs to be paid with interest at the rate of 6% p.a. from the date of filing of claim application. [Paras 4 and 5] [552-A-E]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 395 of 2009.

From the Judgment and Order dated 16.8.2005 of the High Court of Karnataka at Bangalore in M.F.A. No. 1297 of 2003.

R. Nedumaran, P. Somasundaram and T. Harish Kumar for the Appellant.

Girish Anantmurthy, Vijayanti Girish and P.P. Singh for the

Respondents.

A

The Judgment of the Court was delivered by

DR. ARIJIT PASAYAT, J.1. Leave granted.

2. Challenge in this appeal is to the order passed by a learned Single Judge of the Karnataka High Court allowing the appeal filed by the claimants-respondents. Background facts in a nutshell are as follows:

B

On 19.3.1998 a bus owned by the appellant-corporation was plying between Erode to Mysore via Nanjangud. At about 8.15 p.m. one Jayasheela (hereinafter referred to as the 'deceased') who was driving two wheeler sustained injuries, because the bus dashed against the deceased who died on the spot. Respondent No.1 the widow of the deceased and his two minor children filed a Claim Petition claiming compensation in terms of Section 166 of the Motor Vehicles Act, 1988 (in short the 'Act'). Appellant filed its objections denying the liability and took the stand that the accident occurred because of the negligence on the part of the deceased. The first Additional Civil Judge (Sr. Division) and Motor Accidents Claim Tribunal, Mysore (in short the 'MACT') awarded a sum of Rs.1,83,500/- as compensation alongwith 6% interest from the date of filing the Claim Petition.

C

D

E

Questioning quantum of the compensation, respondents Nos.1, 2 and 3 filed an appeal before the High Court. The High Court fixed the quantum at Rs.4,05,500/- with interest at the rate of 6% as was directed by the MACT.

F

3. Learned counsel for the appellant-Corporation submitted that no basis has been indicated for awarding the compensation. By a practically non- reasoned order, appeal has been disposed of.

G

4. Learned counsel for the respondents, on the other hand, submitted that though the judgment is not very elaborate, yet

H

A the basis can be found out from the impugned order. In the normal course in a case where an appeal has been disposed of by a practically non reasoned order, the matter is remitted for fresh consideration. But considering the passage of time and the limited nature of the controversy with the assistance of learned counsel for the parties, we have gone through the records. The accident took place on 19.3.1998. The deceased according to the post mortem report was aged about 24 years. Though it was claimed that he was getting salary of Rs.2,500/- p.m., there was no evidence adduced to substantiate the claim. The MACT noticed that no evidence was adduced to substantiate the income and, therefore, notional income of Rs.1,500/- p.m. was fixed. One-third was deducted for personal expenses. The High Court did not indicate any reason to fix the income at Rs.2,500/- p.m. though it deducted one-third for personal expenses.

5. In the aforesaid background, the amount of compensation is fixed at Rs.3 lacs to be paid with interest at the rate of 6% p.a. from the date of filing of claim application. While working out the interest payable the amounts already paid shall be duly taken note of and the interest would be calculated on the balance amount payable.

6. The appeal is allowed to the aforesaid extent.

F B.B.B. Appeal partly allowed.