

R. VENKATA RAMANA & ANR.

v.

THE UNITED INDIA INSURANCE CO. LTD. & ORS.
(Civil Appeal No. 8283 of 2013)

SEPTEMBER 17, 2013

[ANIL R. DAVE AND DIPAK MISRA, JJ.]

Motor Vehicles Act, 1988:

Motor accident – Victim, a 17 year old student became disabled – Tribunal awarded compensation of Rs. 18,75,800/- with 7.5% interest – High Court reduced it to Rs. 12,45,800/- Held: Keeping in view the amount spent by parents on treatment of victim and the fact that he has practically become bedridden and would require care by a person throughout his life, compensation by Tribunal was just and proper – Judgment of High Court set aside and that of Tribunal restored.

Motor accident claims – Award of just compensation – Discussed.

The son of the appellants, a 17 year old student, met with a motor accident and because of the injuries, became disabled. The Tribunal awarded compensation of Rs. 18,75,800/- with 7.5% interest from the date of filing of the petition till payment. However, the High Court, relying upon *Sarla Verma's case, reduced the compensation to Rs.12,45,800/-. Aggrieved, the parents filed the appeal.**

Allowing the appeal, the Court.

HELD: 1.1. The evidence establishes that the condition of the victim after the accident has become very pathetic. He shall not be in a position to speak for his life and shall not be in a position to do anything except

A breathing for his life. He would require care of a person every day like a child. Further, the appellants had in fact proved that they had spent a huge sum towards nursing and medical expenses for treating their son as also for purchasing certain instruments to facilitate his living. In the circumstances, the Tribunal was not at all lenient in the matter of awarding the compensation, which was just and proper. [para 9, 10 and 12] [454-G; 455-A-B; 456-A]

B
C
D 1.2 At times it is not possible to award compensation strictly in accordance with the law laid down, as in a particular case it may not be just also. Though, the High Court has rightly followed the principle laid down in the case of *Sarla Verma*, the amount of compensation awarded by the Tribunal is more just. The judgment of the High Court is set aside and the order of the Tribunal restored. [para 12-14] [456-C, E-G]

**Sarla Verma v. Delhi Road Transport Corporation* 2009 (5) SCR 1098 = 2009(6) SCC 121- referred to.

Case Law Reference:

E 2009 (5) SCR 1098 referred to para 8

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 8283 of 2013.

F From the Judgment & Order dated 27.12.2010 of the High Court of Judicature, Andhra Pradesh at Hyderabad in Civil Misc. Appeal No. 1016/2007.

Venkateswara Rao Anumolu for the Appellant.

A.K. De, Debasis Misra for the Respondents.

G The Judgment of the Court was delivered by

ANIL R. DAVE, J. 1. Leave granted.

H 2. Being aggrieved by the Judgment delivered by the Andhra Pradesh High Court in Civil Misc. Appeal No.1016 of 2007 on 27th December, 2010, this appeal has been preferred

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on behalf of the claimants in a Motor Accident Claim Petition. **A**

3. The facts giving rise to the present appeal, in a nut shell, are as under:

On account of an accident, which had taken place on 31st July, 2000, around 6 p.m., son of the appellants had suffered severe injuries. He had to be hospitalized and operations had to be performed. The injured was left with 80% disability due to the accident. Looking at the nature of injuries suffered by the injured, a claim for Rs.25,07,564/- was made by the appellants and the injured, who was also a claimant before the Tribunal but at present, possibly because of his inability, the appeal has been filed by the parents. **B**
C

4. After considering the evidence and looking at the injuries suffered and physical condition of the injured, namely, Rajanala Ravi Krishna, who was hardly 17 years old at the time of the accident, by way of compensation, the Tribunal awarded a sum of Rs.18,75,800/- with interest @ 7.5 % from the date of presentation of the petition till realization of the said amount. **D**

5. Being aggrieved by the order passed by the Tribunal, respondent No.1 – United India Insurance Company Ltd., filed Civil Misc. Appeal No.1016 of 2007 praying that the amount of compensation be reduced as it was much on higher side. After hearing the concerned counsel and looking at the evidence, the High Court allowed the civil misc. appeal by reducing the amount of compensation to a sum of Rs.12,45,800/- with interest thereon to the claimants. **E**
F

6. Being aggrieved by the reduction in the amount of compensation, the parents of the 17 years old injured student have approached this Court by way of this appeal. **G**

7. The learned counsel appearing for the appellants had submitted that the Tribunal had awarded just and proper compensation which ought not to have been reduced by the High Court. The learned counsel had taken us through the order passed by the Tribunal and the relevant evidence. Upon perusal **H**

A of the evidence, we find that the son of the appellants, as a
 result of the accident, is suffering from 80% permanent
 disability. The Neurologist who had been examined by the
 Tribunal had stated that there was no chance of any
 improvement in the health of the injured. Upon perusal of the
 B evidence, we find that Rajanala Ravi Krishna, as a result of the
 accident, tracheotomy and other surgeries performed on him,
 he has practically become bedridden, except for the fact that
 he can be moved in a wheel chair. He requires continuous
 nursing because he is unable to perform his day to day
 C activities. In the circumstances, the learned counsel had
 submitted that the amount of compensation awarded by the
 Tribunal was just and proper.

8. On the other hand, the learned counsel appearing for
 the respondent – Insurance Company had submitted that the
 D Tribunal had awarded huge amount of compensation to a
 person who was not having any income and was only a student,
 whose future was not known to any one. In the said
 circumstances, according to the learned counsel, the High
 Court had rightly considered the judgment delivered by this
 E Court in the case of *Sarla Verma v. Delhi Road Transport
 Corporation* 2009(6) SCC 121 while awarding just amount of
 compensation. He had supported the judgment delivered by the
 High Court and had submitted that the present appeal be
 dismissed.

F 9. Upon hearing the learned counsel and looking at the
 impugned judgment and the order of the Tribunal as well as the
 evidence adduced on behalf of the claimants, we are of the view
 that the Tribunal was not at all lenient in the matter of awarding
 the compensation and the compensation awarded by the
 G Tribunal was just and proper.

10. We have considered the facts and the injuries suffered
 by Rajanala Ravi Krishna, who was hardly 17 years old student
 at the time of the accident. We need not go into the negligence
 part of the driver because even in the criminal proceedings it
 H had been held that the driver of the vehicle was guilty of rash

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and negligent driving. Upon perusal of the evidence, we find that the condition of Rajanala Ravi Krishna, after the accident has become very pathetic. Evidence adduced by the Neurologist and other evidence also reveal that Rajanala Ravi Krishna shall not be in a position to speak for his life and shall not be in a position to do anything except breathing for his life, unless a miracle happens. He would require care of a person every day so as to see that he is given food, bath etc. and so as to enable him even in the matter of answering natural call. It would be worth producing the reaction of the Tribunal after appreciating evidence of the doctor and the said portion of the Tribunal's order has been even reproduced by the High Court in its judgment:

"It is not in dispute that because of this accident the injured petitioner who appears to be an active and bright student from Exs.A.481 to A.487, he lost all the function of his all four limbs on account of the severe injuries sustained by him. I have myself questioned PW.2 to find out the graveness of the injuries that are sustained by the injured third petitioner. It has been the evidence of PW.2 that there is no possibility of the injured petitioner regaining normal power of all the four limbs inspite of any amount of treatment. The patient require physio therapy throughout his life and assistance of some person for all his activities. PW.2 has also stated that it is difficult to say even by the time he was giving evidence whether the patient could regain his voice, PW.2 further stated that the patient requires regular medication of at least Rs.500/- per day for his subsistence. PW.2 also stated the patient requires some bodies assistance even for taking food and finally PW.2 stated that the patient is medically described as in a "vegitiative state" and patient is called as "spastic quadric paresys".

11. Looking at the aforestated facts which even the High Court had noticed, we feel that the Tribunal can not be said to have awarded more amount by way of compensation.

A 12. From the order of the tribunal, we find that the appellants had in fact proved that they had spent Rs.3,49,128/- towards medical expenses for treating their son. They had to purchase certain instruments worth Rs.58,642/- for making life of their son comfortable and Rs.31,000/- had been spent towards nursing and Rs.1,37,000/- had to be spent for Physiotherapist. Looking at the fact that Rajanala Ravi Krishna will have to remain dependant for his whole life on someone and looking at the observations made by the Tribunal, which have been reproduced hereinabove, in our opinion, his life is very miserable and there would be substantial financial burden on the appellants for the entire life of their injured son. At times it is not possible to award compensation strictly in accordance with the law laid down as in a particular case it may not be just also. We are hesitant to say that it is a reality of life that at times life of an injured or sick person becomes more miserable for the person and for the family members than the death. Here is one such case where the appellants, even during their retired life will have to take care of their son like a child especially when they would have expected the son to take their care.

E 13. Though, the High Court has rightly followed the principle laid down in the case of *Sarla Verma* (supra), in our opinion, the amount of compensation awarded by the Tribunal is more just. The Tribunal awarded a lump sum of Rs.10 lacs and the amount of expenditure incurred by the appellants for treating their son. The total amount awarded by the Tribunal was Rs.18,75,800/- which, in our opinion, is not too much and in our opinion, the said amount should be awarded to the appellants.

G 14. In the circumstances, we quash and set aside the judgment delivered by the High Court and restore the order of the Tribunal. The amount of compensation determined by the Tribunal along with interest @ 7.5 % from the date of presentation of the claim petition till its realization shall be paid to the appellants.

H 15. The appeal is allowed with no order as to costs.

H R.P.

Appeal allowed.