
(1990) 08 MAD CK 0069
In the Madras High Court
Case No : A.A.O. No. 684 of 1984

K. Pushpam and Others

APPELLANT

Vs

Anna Transport Corporation

RESPONDENT

Date of Decision : 08-08-1990

Acts Referred:

Citation : (1991) 2 ACC 656 : (1992) ACJ 58 : (1991) 1 LW 555

Hon'ble Judges : K. Venkataswami, J;Abdul Hadi, J

Bench : Division Bench

Advocate : M. Venkatachalapathy, for the Appellant; T. Arulraj, for the Respondent

Judgement

Abdul Hadi, J.—The petitioners before the Tribunal below, who are the widow, two minor children and parents of the deceased Kandasamy, who died in the motor accident that took place on 2.8.1981, are the appellants in this appeal u/s 110-D of the Motor Vehicles Act, 1939. They were awarded a sum of Rs. 50,350/- as compensation for the loss of the deceased in the said accident. Not satisfied with the said award (as against their original claim of compensation to the extent of Rs. 3,00,500), they have filed this appeal claiming a further award of compensation to the extent of Rs. 1,50,150/-.

2. In the said accident, the bus bearing registration No. TN 6146 of the respondent Corporation dashed against the taxi car in which the deceased was travelling and as a result of the said accident, he died.

3. The only question to be decided in this appeal is, whether the compensation amount awarded by the Tribunal below is correct, or whether any enhancement as claimed by the appellants is called for.

4. The Tribunal below finds that the records produced show that the deceased owned agricultural lands and was also a dealer in ammunition business and was also having a toddy shop licence for one year. Exh. A-6, the solvency certificate produced by the deceased shows that he owned properties for the value of Rs.

1,00,000/-. Exh. A-1, the deed of partition shows the lands to the extent of about 15 acres allotted to him and his minor son. Exh. A-2 shows that he was a partner in the above said ammunition business. The Tribunal also observes that the lands allotted in the above said partition are even now available and that what would have been lost is his service. PW 1, Ms widow deposed that he was getting a monthly income of Rs. 1,500/-. Yet, the Tribunal has taken the monthly income of the deceased at Rs. 500/- on the ground that out of the said sum of Rs. 500/-, the deceased would have given at least a sum of Rs. 300 for the maintenance of his family, it assessed the pecuniary loss suffered by his family due to his death at Rs. 300/- per month. On that basis, the Tribunal taking into consideration the age of the deceased on the date of the accident, namely, 30 years, the age of his parents and that of his widow (27 years) and holding that the normal span of life of a man is 70 years and adopting 15 years" purchase/multiplier, calculated the pecuniary loss to the family at Rs. 42,200/-, after deducting 3 years" income from the above said 15 years, for uncertainty of life and lump sum payment. (This figure must be Rs. 43,200/- according to the Tribunal"s own calculation and not Rs. 42,200/-.)

5. Apart from the above said sum of Rs. 42,200/- the Tribunal has granted another sum of Rs. 8,000/- towards "the loss of estate and loss of happiness" to the family and a sum of Rs. 150/- towards transportation of the dead body of the deceased from the hospital to his house. Thus, in all, the Tribunal has granted an award for a sum of Rs. 50,350/-.

6. The learned Counsel for the appellants made two submissions. One is that the monthly income of the deceased had been arrived at a very low figure of Rs. 500/- and taking into consideration his agricultural holdings and his interest in the above said two businesses, it should have been fixed at least at Rs. 1,000/- per month. Secondly, he submits that the multiplier of 15 years is low.

7. So far as his first contention is concerned, no doubt the Tribunal below has found that no records have been produced regarding the actual income of the deceased and further, it is also pointed out that the above said toddy shop licence was only for one year. Further, the trial court has also found that no agricultural income tax nor other income tax for his business has been paid by the deceased. However, the learned Counsel for the appellants drew our attention to the decision in Gujarat State Road Transport Corporation v. Malubai Menand 1981 ACJ 36 (Guj) wherein it was held that proper compensation had to be paid keeping in view the agricultural holdings of the deceased also even though those agricultural lands, even after the death of the deceased, remained intact with the dependants. That is so because of the loss of the head of the family and the consequent reduction in the income from the said lands due to possible deficiency in the supervision or management of the said lands.

8. In the circumstances, we also feel that a person like the deceased, who owned agricultural lands and ran the above said business in ammunition besides holding a licence in arrack business for one year, the monthly income normally cannot be

so low as Rs. 500/-. Though PW 1 has deposed that the deceased was getting a sum of Rs. 1,500 per month, we think that it will be reasonable to fix the monthly income of the deceased at Rs. 750/- and that from out of the said sum of Rs. 750/- we could safely conclude, taking into consideration the number of the members of his family, that the deceased would have given at least a sum of Rs. 450 per month towards the maintenance of his family.

9. So far as the next contention of the learned Counsel regarding the multiplier being fixed at 15 years, we think that the said figure would have been fairly reasonable, provided no reduction was made from it on ground of uncertainty of life and lump sum payment. In *State of Tamil Nadu v. M.N. Shamsudeen* 1981 ACJ 244 (Madras) a Division Bench of this Court held that it is only when the pecuniary loss is determined on the basis of longevity of the deceased that any deduction is possible for lump sum payment and not when compensation was assessed by adopting years' purchase method (multiplier method). The reason is that the multiplier is fixed not for the entire span of life, but only for a reasonable period. It is also observed in *Kunchidapatham and Others Vs. Dhanalakshmy Bus Service and Another*, by a Division Bench of this Court as follows:

...it would be unreasonable, if in every case, one-third of the compensation amount has to be deducted because it results in a lump sum being paid. Such a deduction would certainly become necessary only in such of those cases where it results in an unjust or unrealistic compensation amount being derived by adopting any one or more of the formulae and it turns out to be disproportionate, astronomical, speculative and unrelated to realities and results in unjust enrichment, etc. It is only in such of those cases where the court opined to this effect, then alone, a further deduction could be made to the extent required, and it need not necessarily be one-third.

The present evidence is riot one where the formula adopted can be said to have resulted in unjust or unrealistic compensation amount. Further, it is to be noted that in certain decisions even 30 years' multiplier or 40 years' multiplier has been adopted vide *Sankaran v. Valliammal* 1988 ACJ 16 (Mad) *Pallavan Transport Corporation v. I.D. Sohanraj Jain* 1986 TLNJ 320 and *The Andhra Pradesh State Road Transport Corporation Vs. Narasavva and Others*, .

10. Therefore, on the basis that a sum of Rs. 450/- per month would have been given by the deceased to his family members for their maintenance and on the basis that the multiplier is 15 years, without any further reduction for uncertainty of life or lump sum payment, an additional compensation of Rs. 38,800/- (Rupees thirty-eight thousand and eight hundred) is hereby awarded to the appellants. Accordingly, this appeal is partly allowed with proportionate costs. This additional sum shall also bear interest at the rate of 6 per cent per annum.