(2012) 02 KL CK 0150

In the High Court Of Kerala

Case No : MACA No. 669 of 2006 (A) and OP (MV) 1418 of 2001

Sankaran and Leelavathy — APPELLANT

Vs

Divisional Manager, National Insurance Co. Ltd., Kottayam — RESPONDENT

Date of Decision : 29-02-2012

Acts Referred:

Citation : (2012) 02 KL CK 0150

Hon'ble Judges : Pius C. Kuriakose, J;A.V. Ramakrishna Pillai, J

Bench : Division Bench

Advocate : G. Sukumara Menon, for the Appellant; P. Jayasankar for R1, for the Respondent

Judgement

Pius C. Kuriakose, J.—The legal representatives of a Mechanic in an automobile workshop who lost his life in a road traffic accident, his parents are aggrieved by the quantum of compensation which was awarded to them by the Motor Accidents Claims Tribunal. The deceased was aged 20. The claim of the appellants was that the deceased was drawing a monthly income of Rs. 4,000/-. In the absence of evidence the learned Tribunal adopted the income of the deceased notionally to be Rs. 1,500/- only. The appellants were aged 53 years and 48 years respectively and the learned Tribunal adopted a multiplier of 17 and determined the dependency compensation separately for the father and the mother of the deceased. In the memorandum of appeal it is urged that the dependency compensation and the compensation awarded by the Tribunal under various heads is quite inadequate.

2. We have heard the submissions of Smt. Deepthi S. Menon, the learned counsel for the appellants and those of Sri. P. Jayasankar, the learned Standing Counsel for the Insurance Company. While Smt. Depth argued that the compensation awarded by the Tribunal is quite inadequate the argument of Sri. Jayasankar was that there is absolutely no warrant for giving any increase.

3. Having given our anxious considerations to the rival submissions addressed at

the Bar and having carefully gone through the impugned award, we feel that there is justification for awarding some more compensation to the appellants. According to us, the notional income of Rs. 1,500/- adopted by the learned Tribunal as the multiplicand for determining the dependency compensation is too low. So also we are of the view that in this case the proper multiplier to be adopted was 13 and the learned Tribunal could have determined the dependency compensation in one stretch. Considering the average age of the appellants who are the parents, we also are of the view that it was unnecessary for the learned Tribunal to have determined the dependency compensation separately for the mother and the father. According to us, the notional income of the deceased could have been taken to be Rs. 3,000/-. Following the principle laid down by the Supreme Court in Sarla Verma v. Delhi Transport Corporation 2010 (2) KLT 802 SC the proper deductions to be made considering the age of the deceased who was a bachelor at the time of his death is =. When the dependency compensation is re-computed in this manner the same will come to Rs. 2,34,000/- (Rs. 3,000 x 12 x 13 x 50%). Thus the appellants become eligible for a sum of Rs. 84,000/- towards dependency compensation. It is seen that towards loss of estate the appellants were not awarded any compensation. We award to the appellants a sum of Rs. 5,000/- towards loss of estate. We find that the learned Tribunal has awarded only a sum of Rs. 2,000/- towards funeral expenses. There is justification for awarding Rs. 3,000/- more towards funeral expenses and we award that amount to the appellants towards funeral expenses. We find that towards love and affection the learned Tribunal awarded only Rs. 10,000/-. According to us, the amount is inadequate. We award to the appellants Rs. 5,000/- more. Thus over and above what is awarded by the Tribunal we award a total amount of Rs. 97,000/- as additional compensation. This amount will carry interest at the rate awarded by the Tribunal except during the period of 853 days under which the filing of the appeal was delayed.