
(1999) 10 MAD CK 0005
In the Madras High Court

The District Collector and Another

APPELLANT

Vs

Smt. Neela Bai and Others

RESPONDENT

Date of Decision : 26-10-1999

Acts Referred:

Citation : (2000) 1 ACC 418

Hon'ble Judges : R. Jayasimha Babu, J;I. David Christian, J

Bench : Division Bench

Judgement

1. The Government has come up with this appeal against the award of the Tribunal by which a sum of Rs. 3,53,400/- has been awarded as

compensation to the claimants who are the widow and children of the deceased being an employee of the Government and who was travelling in

the jeep which was driven by the employee of the Government, that jeep having met with an accident on 31.1.1994. The deceased Anandaraj died

as a consequence. The claimants before the Tribunal were the widow and children of the deceased Anandaraj.

2. The Tribunal has awarded compensation of Rs. 3,53,400/- which, in our opinion is very conservative award. Admittedly, the deceased had

been employed as an Assistant in the Forest Department and was drawing a salary of Rs. 3,685/- on the date of the accident i.e., on 31.1.1994.

The report of the Pay Commission has been published and it was recommended for the said post salary of about of Rs. 5,000/-. At the time of the

accident, the Pay Commission which had been constituted by the Government was engaged in the task of revising the pay scale and for the post of

Assistant, the scale of pay was later revised to about Rs. 5,000/- per month.

3. Taking into account the salary of the deceased would have earned over a

period of time as also the prospects of higher salary by reason of prospective promotion, it can be safely said that his income would have been not less than Rs. 5,000/- per month for the remaining period of service. The age of the deceased was given as 47 years by the claimants. Respondents did not choose to adduce any evidence to contradict it. The Tribunal has however adopted the age of the deceased at 52 by relying upon the post-mortem certificate.

4. We do not approve such method of determining the age especially when the respondents which had custody of the records pertaining to its employee, had failed to produce the same. There was no reason to depart from the evidence that has been given by the claimants that the age of the deceased was 47 years.

5. Had the deceased continued to live, he would have 11 years of service before retirement during which period he would have earned not less than Rs. 5,000/- per month. After deducting the extent of dependency would be Rs. 40,000/- per annum. If this sum is multiplied by 12, it would yield a sum of Rs. 4,40,000/-. The claimants are entitled continually to a sum of Rs. 30,000/- towards as loss of consortium and loss of estate Rs. 15,000/- unsummonable. Thus the total amount comes to Rs. 4,70,000/-. The Tribunal has granted only the sum of Rs. 3,53,400/- as against the sum of Rs. 4,70,000/- to which sum the claimants are entitled.

6. Even though the claimants have not preferred an appeal or filed any cross-objection, we do not regard that as an unsummonable hurdle coming in the way of award of a larger sum. We find that the award of larger sum was justified. In this case as we have noticed earlier, the claimants are entitled to the award of Rs. 4,70,000/- on the basis of the evidence placed before the Court. The claimants shall pay additional Court fee on the amount in excess of the amount determined by the Tribunal namely the difference between Rs. 4,70,000/- and Rs. 3,53,400/-. The claimants are also entitled to interest @ 12% on the amount awarded as now enhanced by us from the date of the claim till date of payment. Consequently, W.M.P. is closed.