

(2012) 04 KL CK 0003
In the High Court Of Kerala
Case No : M.A.C.A. No. 974 of 2006 (A)

Vimala Aravind and Another	Vs	APPELLANT
Rahim and Others		RESPONDENT

Date of Decision : 10-04-2012

Acts Referred:

Citation : (2013) ACJ 1720

Hon'ble Judges : R. Basant, J; Babu Mathew P. Joseph, J

Bench : Division Bench

Advocate : Vivek Varghese P.J, for the Appellant; P.M.M. Najeeb Khan, for the Respondent

Final Decision : Partly Allowed

Judgement

R. Basant, J.—Claimants are the appellants. Originally father and mother of a deceased person, aged 25 years, were the claimants. Father died during the pendency of the proceedings and the sister of the deceased has come on record as legal heir of the deceased father along with his mother. The deceased was a First Year M.B.B.S. student. He succumbed to injuries suffered in a motor accident which took place on 26.10.1997. It appears that the deceased had earlier worked elsewhere. But he had come back to pursue his medical education in India. While he was studying as a First Year M.B.B.S. student, he had met with the accident. His parents were aged 56 and 48 years respectively on the date of the claim. The Tribunal on an anxious consideration of all the relevant inputs directed payment of a total amount of Rs. 3,14,000 as per details shown below:

The challenge is directed against the quantum of compensation only. There are no other contentious issues.

2. Learned counsel for the appellants-claimants submits that the Tribunal had grossly erred in fixing the total quantum of compensation payable at Rs. 3,14,000.

3. The challenge is primarily directed against the monthly income taken into

reckoning by the Tribunal. The Tribunal had taken only Rs. 3,000 as the monthly income. This is grossly inadequate. This is unrealistic. The quantum of probable monthly income reckoned by the Tribunal is painfully low, contends the learned counsel for the appellants.

4. Learned counsel for the appellants further contends that no compensation has been awarded under the head of loss to estate. The learned counsel further contends that the amounts awarded under the other heads shown above are also too inadequate and low.

5. We have heard the learned counsel for the appellants-claimants and the learned counsel for the insurance company. The learned counsel for the insurance company contends that it would be idle to assume that the deceased, who was pursuing his medical education, was simultaneously earning other income. Such income from assets cannot be reckoned his income on which loss/compensation can be ascertained, contends the learned counsel for the insurance company.

6. We have considered all the relevant inputs. We are not persuaded to agree that the amounts awarded under the 5 specific heads indicated above (other than the compensation for dependency) deserve or warrant interference. We agree that a global amount ought to have been awarded under the head of loss to estate.

7. The crucial dispute is about the probable income of the deceased after he completes his medical education. The Tribunal reckoned only Rs. 3,000 as such probable monthly income. We are of the opinion that the course adopted by the Tribunal is not justified. The deceased had to continue his medical education for a further period of 4 years. Thereafter only, he could have aspired to earn any income from his medical profession. We are satisfied that in any view of the matter Rs. 8,000 per mensem can be reckoned as the monthly income of the deceased after he completes his education. For that, the claimants would certainly have had to wait for a further period of at least 4 years. By then the claimant No. 2/mother would have been aged between 50 and 55 years. 11 is the multiplier specified for such a person as per the dictum in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, .

8. The learned counsel for the insurance company points out that since the deceased was a bachelor, following the dictum in Sarla Verma (supra), only half the income can ordinarily be reckoned as the contribution for the family. We accept that submission of the learned counsel for the insurance company. We are satisfied that the quantum of compensation deserves to be enhanced on the above principles.

9. We do, in these circumstances, come to the conclusion that appellants are entitled for a further amount of Rs. 2,45,000 (rupees two lakh forty-five thousand) in addition to the amounts already awarded by the Tribunal as per the details given below:

10. We make it clear that interest shall be payable at the rates and for the period as directed by the Tribunal on the entire amount of compensation. No interest shall be payable on the enhanced amount of compensation for the period of delay in filing the appeal as already ordered.

11. In the result:

(a) This appeal is allowed in part;

(b) The appellants shall be paid a further amount of Rs. 2,45,000 (rupees two lakh forty-five thousand) in addition to the amount awarded by the Tribunal under the impugned award;

(c) We make it clear that the entire amount of compensation shall carry interest at the rate and for the period specified by the Tribunal in the impugned award subject to the order passed in the application for condonation of delay in filing this appeal.

(d) All other directions of the Tribunal are upheld.

We further make it clear that proportionate costs shall be payable on the entire amount of compensation as per the dictum in Jeena Vs. Satheesan Babu and others, .