

Vethambal and Ors. Vs. The Oriental Insurance Company and Ors.

Civil Appeal No. 3482 of 2024 · Supreme Court of India · 2024-03-06 · C.T. Ravikumar · Rajesh Bindal · F2J-C-1591

Full judgment text

Vethambal and Ors. Vs. The Oriental Insurance Company and Ors.

[Civil Appeal No. 3482 of 2024]

Rajesh Bindal, J.

1. Aggrieved against the judgment¹ of the High Court², vide which the compensation awarded to the appellants (claimants) by the Tribunal³ was reduced, the present appeal has been preferred.

2. Briefly, the facts are that Ravisankar, aged 52 years, met with an accident on 09.12.2012, at about 8.30 P.M. while driving TVS Starcity bearing registration No. TN-72-AV-0927, which was insured with respondent No. 1-Insurance Company. FIR No. 442 dated 10.12.2012 was registered at Police Station Kalakkaadu, District Tirunelveli. A claim petition⁴ was filed by the dependants of the deceased claiming compensation of ₹1,00,00,000/-.

It was pleaded that the deceased was doing multiple activities. Besides being an agriculturist growing bananas, coconuts and paddy, he was also running a dairy farm and was a Government contractor. He was the sole bread earner of the family, who left behind his old mother, wife, daughter and son, who are the appellants before this Court.

3. The accident and the liability of the Insurance Company as such are not in dispute.

4. The only dispute raised in the present appeal is regarding the quantum of compensation to which the appellants are entitled to.

5. The Tribunal, after considering the evidence led by the parties, opined that the income of the deceased was ₹50,000/- per month. Applying a cut of 1/4th for his personal expenses and adding 10% for future prospects, assessed total compensation towards loss of income at ₹51,04,550/-. Besides that, ₹15,000/- were awarded towards loss of estate, ₹40,000/- towards loss of consortium and ₹15,000/- for funeral expenses. The total amount of compensation assessed by the Tribunal was ₹51,64,550/-⁵. Interest @8% per annum was also awarded.

6. Aggrieved against the aforesaid award of the Tribunal, the Insurance Company preferred an appeal before the High Court. The main issue raised was regarding the income of the deceased. Accepting the contentions raised by the Insurance Company, the High Court reduced the income of the deceased from ₹50,000/- to ₹20,000/- per month. After adding 10% towards future prospects, application of 1/4th cut on account of personal expenses and after applying a multiplier of 11, the loss of income was assessed at ₹21,78,000/-. Adding a sum of ₹70,000/- under the conventional heads, compensation of ₹22,48,000/- was awarded. The interest awarded by the Tribunal was not disturbed.

7. Learned counsel for the appellants submitted that the High Court had gone wrong in reducing the amount of income of the deceased from ₹50,000/- to ₹20,000/- per month. There is ample evidence on record to show that whatever was assessed by the Tribunal was just and fair. The deceased had been supplying milk and coconuts to Donavoor Santhosha Vidhayalaya School, from which he had received a sum of ₹8,52,447/- during the period from 20.09.2011 to 28.11.2012 (14 months).

He was also growing paddy on his land from which receipt claimed was ₹7,29,900/-. He also received ₹16,36,398/- from sale of bananas grown on the land owned by him. As he was also working as a Government contractor, his annual income therefrom was ₹6,00,000/-. The Tribunal had already taken a very conservative view of the matter and assessed the income at ₹50,000/- per month. Though the amount assessed by the Tribunal was not reasonable, still the appellants did not challenge the same any further.

However, the Insurance Company, with a view to rubbing salt on the wounds, challenged the reasonable compensation awarded by the Tribunal. Sole earning member of the family had died

leaving behind four dependants. Value of the life cannot be assessed but whatever meagre amount the Tribunal awarded, the appellants felt satisfied. The prayer is for setting aside the judgment of the High Court and to restore that of the Tribunal.

8. On the other hand, learned counsel for the Insurance Company submitted that it is a case where unimaginable claims were made by the appellants. The land on which bananas were being grown is still there which is being used by the family for growing the same, hence there is no loss of income on that account. There is no clinching evidence on record to show that the deceased was working as a Government contractor regularly and the income was being generated therefrom.

Total receipts from supply of milk and coconuts to the school cannot be said to be the income. The High Court had taken a reasonable view as compensation to be awarded to the dependants of a deceased has to be just and reasonable and not the kind of bonanza. There is no error in the judgment of the High Court. The appeal deserves to be dismissed. 9. Heard learned counsel for the parties and perused the relevant referred record.

10. The basic facts, namely, the date of accident, the age of the deceased and dependency are not in dispute. There is no dispute on the negligence part also. The only issue sought to be raised is with reference to the assessment of the income of the deceased.

11. From the material placed on record by the appellants, it is evident that besides generating income from the land owned by the family in the form of sale of paddy and bananas, the deceased was also having income from supply of milk and coconuts to the school. There is also material available on record to show that he worked as a Government contractor. Meaning thereby, to make the lives of his family members comfortable, the deceased was multi-tasking and he was not engaged in a 9.00 to 5.00 P.M. job.

12. From the material available on record, in the form of Ex. P12 (receipt issued by the school) and Ex. P13 (bank account statement of the deceased) and statement of PW3-Thiru. Ponraj (Principal of the School), the deceased received a sum of ₹8,52,447/- from the school for the period from 20.09.2011 to 28.11.2012 (14 months) on account of supply of milk and coconuts. Though the entire amount received by the deceased from the school on account of supply of milk and coconuts cannot be said to be his income but it proves that he was engaged in this business.

13. As far as the income from the agriculture is concerned, the appellants claimed that the deceased was the only person in the family who was taking care of the land. His share in the land was 07 acres and 47 cents though the family owned 27 acres and 78 cents. He was growing bananas and paddy. It was claimed that his receipts therefrom was ₹23,66,298/-.

Though part of the aforesaid land was said to be wet land, hence not cultivable but it came in evidence of RW3-Thiru. Ramasamy, Village Administrative Officer, that after the death of Ravi Shankar in the accident in question, the land is not being cultivated. Meaning thereby, on account of the death of the deceased, the income from the land must have been reduced.

The appellants had claimed receipts on that account to the tune of ₹25,00,000/-. Further, Thiru. Kalayana Sundram, Income Tax Officer, appeared as RW2. He stated that the deceased did not pay income tax of ₹1,48,598/- for the year 2010-11. There is also evidence on record to show that the deceased received ₹22,23,553/- from Tirunelveli Municipal Corporation for execution of a works contract during the year 2011-12.

14. The High Court on a very conservative basis assessed the income of the deceased at ₹20,000/- per month, bifurcating the same at ₹8,000/- per month for supply of milk to the school, ₹5,000/- per month from agriculture and ₹7,000/- per month from working as a contractor. In our opinion, considering the material placed on record by the appellants, income of the deceased deserves to be re-assessed as it is established that he was doing multiple works. It also came on record that after his death, the land was lying barren and was not being cultivated.

15. Assessment of compensation cannot be done with mathematical precision. The Motor Vehicles Act, 1988 also provides for assessment of just and fair compensation. In our opinion, considering the material placed on record by the appellants, as has been referred to above, and value of the labour being put in by the deceased in agriculture, it would be reasonable to assess his income at ₹35,000/- per month.

Considering his age at the time of death as 52 years on the date of accident, the applicable multiplier would be 11 as per the judgment of this Court in *Sarla Verma (Smt.) and others v. Delhi Transport Corporation and another* 6 approved by this Court in *National Insurance Company Ltd. v. Pranay Sethi and others*⁷.

16. Hence, the compensation on the basis of income assessed by this Court would be as under:

Sl. No. Head Amount (in ?)

A Monthly Dependency 35,000/-

B Future Prospects (10 % of Monthly Dependency) 3,500/-

C $\frac{1}{4}$ deduction towards personal expenses 9,625/-

D Total Dependency (A+B-C) 28,875/-

E Age Multiplier 11

F Compensation (D x 12 x 11) 38,11,500/-

G Loss of Estate 15,000/-

H Funeral Expenses 15,000/-

I Loss of Consortium 40,000/-

Total 38,81,500/-

17. Thus, the appellants are found entitled to compensation of ₹38,81,500/- with interest @8% from the date of filing of the claim petition till realization. Ordered accordingly. The judgment of the High Court is modified to the extent mentioned above.

18. The appeal stands disposed of accordingly.

.....J. (C.T. Ravikumar)

.....J. (Rajesh Bindal)

New Delhi

March 6, 2024.

1 Judgement dated 04.04.2019

2 Madras High Court, Bench at Madurai

3 Motor Accident Claims Tribunal, Tirunelveli

4 M.C.O.P. No. 281 of 2013

5 There seems to be some error in the calculation

6 (2009) 6 SCC 121

7 (2017) 16 SCC 680

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