

(2024) 12 SC CK 0058

Supreme Court Of India

Case No: Civil Appeal No. 14749 Of 2024 (Arising Out Of Special Leave Petition (Civil) No. 6313 Of 2024)

T.C. John @ Yohannan
(Deceased) Through Lrs

APPELLANT

Vs

V.J. Antony And Others

RESPONDENT

Date of Decision: Dec. 19, 2024

Hon'ble Judges: J.K. Maheshwari, J; Rajesh Bindal, J

Bench: Division Bench

Advocate: Harshad V. Hameed, Dileep Poolakkot, Ashly Harshad, Mrinal Kanwar, Vaibhav, Mayank Mikhail Mukherjee, Ujjwal Singh

Final Decision: Partly Allowed

Judgement

Rajesh Bindal, J.

1. Leave granted.

2. The present appeal arises out of impugned judgment of MACA no.1072 of 2015 and order dated 07.09.2023 passed by the High Court

of High Court of Kerala at Ernakulam vide which the appeal filed by the appellants-claimants was partly accepted enhancing the compensation

payable to the appellants-claimants. The grievance raised by the appellants-claimants is that the High Court has denied interest to them for the period

between 22.06.2016 to 13.07.2023.

3. The facts as available on record in brief are that the accident took place on 07.08.2006 when the deceased was travelling in his jeep along with his

wife(now widow) and children and a bus hit their jeep, resulting in death of the deceased. The appellants-claimants, consisting of deceased's

widow and three daughters, filed claim appeal OP (MV) no.655 of 2007 before the Tribunal Motor Accidents Claim Tribunal,

Thalassery seeking compensation of ₹15,00,000/-. The Tribunal passed an award of ₹4,15,000/- along with interest @ 7.5% per annum in favour

of the appellants-claimants, making the driver, owner and the insurance company of the bus liable to pay the same.

4. Aggrieved against the award dated 18.11.2011 passed by the Tribunal, the appellants-claimants filed appeal before the High Court. There was a

delay of 708 days in filing the appeal. The same was condoned vide order dated 24.08.2023 with the condition that on the enhanced compensation, if

allowed, the appellants-claimants will not be entitled to claim interest for the period of delay of 708 days. Further the period for which there was delay

in service of copy of paper book upon the standing counsel for the insurance company shall be decided at the time of final disposal of the appeal.

5. The High Court partly accepted the appeal while enhancing the compensation further by an amount of ₹9,84,500/- along with interest @ 8% per

annum. It was directed that appellants-claimants shall not be entitled to the interest for the delay period of 708 days in filing the appeal as was directed

vide order dated 24.08.2023. Further appellants-claimants were not allowed interest for the period between 22.06.2016 to 13.07.2023, which was the

period of delay in supplying the copy of paper book to the standing counsel for the insurance company.

6. Learned counsel for the appellants-claimants submitted that the appellants-claimants are poor and illiterate persons. The deceased was the only

bread earner for the family, working as driver, died leaving behind his widow and three daughters as his dependents. The family was having a hard

time to make both ends meet. The amount of compensation as assessed is on lower side as the income of the deceased was not assessed properly and

hence, appropriate compensation was not awarded. It was further argued that the appeal having been filed before High Court, there had been a delay

in the process on account of the fault of the counsel of appellants-claimants, which should not be taken against the appellants-claimants as they were

not at fault. Hence, the insurance company should be made liable to pay interest on the enhanced compensation. The appellants-claimants should not

be deprived of interest for the period between 22.06.2016 to 13.07.2023.

7. On the other hand, learned counsel for the respondents submitted that the assessment of compensation by the High Court is already on higher side,

however, still the insurance company, accepting the same, has not preferred any appeal. The order of the High Court does not call for interference

even with reference to claim regarding interest for the period between 22.06.2016 to 13.07.2023, during which the copy of the paper book was not

supplied by the counsel for the appellants-claimants to the counsel for the insurance company.

8. Heard the learned counsels for the parties and perused the record available.

9. As far as assessment of compensation is concerned, in our view the same does not call for interference by this Court. The accident took place on

07.08.2006. The income of the deceased, claimed to be working as a driver, has been properly assessed at ₹8,750/- per month by the High Court.

Under other heads also, appropriate amount of compensation has been awarded. Hence, award to that extent does not call for interference.

10. The appellants-claimants, for the period between 22.06.2016 to 13.07.2023, have been denied interest on the ground that there was

delay on the part of the counsel for the appellants-claimants in not supplying the copy of the paper book to the counsel for the insurance company.

Once the matter was before the Court, the appellants-claimants should not be deprived of the interest for the period between 22.06.2016 to

13.07.2023. It cannot be said to be the fault on the part of the appellants-claimants, comparable to a fault in filing the appeal beyond the period of

limitation. In the case in hand, the appeal was barred by 708 days. The High Court while condoning the same, specifically directed that the appellants-

claimants will not be entitled to any interest for the aforesaid period, in case the amount of compensation is enhanced. The order is quite reasonable.

The aforesaid delay in filing the appeal was attributable to the appellants-claimants, hence, they will not be entitled to the interest for the period of 708

days.

11. At the same time, after having filed the appeal and during the pendency, the appellants-claimants should not be made to suffer directing for non-

payment of interest, because for such default claimants alone could not be held responsible. Consequently, denial of interest to the appellants for the period between 22.06.2016 to 13.07.2023 as directed is not justified.

12. For the reasons mentioned above, the present appeal is partly allowed. The impugned order passed by the High Court is modified to the extent that the appellants-claimants shall be entitled to compensation as directed and interest at the same rate for the period between 22.06.2016 to 13.07.2023.

13. Accordingly, the appeal is partly allowed with no order as to costs.