

S.Vishnu Ganga Vs M/s Oriental Insurance Company Ltd Rep By Its Divisional Manager

Court: Supreme Court Of India

Date of Decision: Jan. 29, 2025

Acts Referred: Motor Vehicles Act of 1988 " Section 168

Hon'ble Judges: Sudhanshu Dhulia, J; Ahsanuddin Amanullah, J

Bench: Division Bench

Advocate: Kiran Suri, T. R. B. Sivakumar, Deva Vrat Anand, Abhishek Kumar Gola, Anshul Mehral, Ramneek Singh, Arun Kumar Nagar, Sidharth Khatana, Rahul Kasana, Roop Chaudhary, Sudhir Naagar, G. Indira, P Gandepan, Ashwini Kumar

Final Decision: Disposed Of

Judgement

CLAIM,THE TRIBUNAL,THE HIGH COURT

Claimants,4 (daughters of deceased),

Age,"Father: 57 years

Mother: 50 years",

Multiplier,"Father: 9

Mother: 13","Father: 8

Mother: 12

Income,"Father: Rs.60,000 p.m.

¢,~Abbreviation for per mensem or per

month¢,~¢.

Mother: Rs.60,000 p.m.", "Father: Rs.30,000 p.m.

Mother: Rs.12,500 p.m.

Future Prospects,"Father: Rs.9,000 p.m.

Mother: Rs.18,000 p.m.", "Father: Rs.3,000 p.m. Mother:

Rs.3,125 p.m.

Loss of Income,"Father: Rs.55,89,000 Mother:

Rs.91,26,000", "Father: Rs.24,33,600 Mother:

Rs.16,87,680

Loss of Love and Affection,"Father: Rs.2,00,000

Mother: Rs.2,00,000",

Conventional Head

(Transportation +

Cremation Charges)", "Father: Rs.35,000 Mother: Rs.35,000",

Award,"Father: Rs.58,24,000 Mother:

Rs.93,61,000 Interest @ 7.5 p.a.

Abbreviation for per annum", "Father: Rs.26,68,600 Mother:

Rs.19,22,680

partners in the firm and that they did not suffer any pecuniary loss in the business is also incorrect for the reason that the firm was being run by the,,

parents of the appellants. The appellants were added as partners at the age of about 24, 22, 18 and 18 years respectively, but were not participating in",,,

the business for which the evidence of PWs 3, 8 and 10 were relied on. It was submitted that the evidence showed that due to the death of the",,,

parents, there was a downfall in the number of workers employed which reduced to 138 from 202, including technical workers as the firm was unable",,,

to pay their salaries on time. Further, it was contended that RW-1, who was the Chartered Accountant of the firm, had specifically admitted that the",,,

loss was to the tune of Rs.68,00,000/- (Rupees Sixty Eight Lakhs). Further, learned counsel submitted that the appellants had filed the Mill",,,

Income Tax Returns from AY Abbreviation for Assessment Year 2005-2006 to AY 2011-2012 to show reduced profits. Yet, the High Court",,,

relying on some statements, without considering the whole evidence and the context in which such statements were made, decided to reduce the",,,

compensation awarded. It was the contention of the learned counsel that the multiplier of 8 instead of 9 was applied in the case of the father and 12 in,,

place of 13 with regard to the mother which was against settled law.,,

9. It was submitted that even the Tribunal had not fully appreciated the facts of the case and failed to apply the law as was required to be done, but",,,

the High Court had caused further damage by drastically reducing the compensation awarded, leading to a miscarriage of justice. Moreover, it was",,,

contended that, in fact, R1 had challenged only 50 per cent of the total amount awarded by the Tribunal, but the High Court reduced the awarded",,,

amount by more than 50 per cent with regard to the father and 80 per cent with regard to the mother, way beyond what was sought for by R1.",,,

SUBMISSIONS BY R1:,,

10. Learned counsel for R1 submitted that the claims made by the appellants were exorbitant and even the Tribunal's Award was on the much,,

higher side, than what was actually due and admissible to the appellants. It was submitted that rightly, the High Court reduced the quantum of amount",,,

awarded. It was argued that reduction was made after considering the evidence led by the appellants, especially of PW-8, PW-9 and PW-10. It was",,,

stated that the cases referred to by the appellants did not apply to the facts of the present cases. Lastly, it was contended that the Impugned Judgment",,,

needs no interference.,,,

ANALYSIS, REASONING AND CONCLUSION:",,,

11. Having examined the matter, the Court finds that the Award rendered by the Tribunal is well-considered. Though the claimed compensation was",,,

Rs.1,00,00,000/- (Rupees One Crore) each with regard to the father and the mother, the Tribunal granted Rs.58,24,000/-(Rupees Fifty-Eight Lakhs",,,

Twenty-Four Thousand) re the father and Rs.93,61,000/-(Rupees Ninety-Three Lakhs Sixty-One Thousand) re the mother. The documents produced",,,

by the appellants and the reasoning given by the Tribunal as well as the Karnataka High Court's Division Bench judgment in B Parimala (supra),,,

indicate, and in our opinion, rightly so, that merely because the appellants stepped into the shoes of the deceased, by such factum itself, the appellants",,,

would not be capable of running the Mill. It would be of relevance as to whether due to their lack of experience and maturity, real/expected downfall",,,

in the profitability of the firm or the business would ensue. Such factor, while considering a claim pertaining to loss of future income/earnings, would",,,

have to be dealt with. In the present cases, even the monthly incomes of the parents as claimed by the appellants i.e.. income of the father being",,,

Rs.25,00,000/-(Rupees Twenty-Five Lakhs) per year and the mother's being Rs.20,00,000/- (Rupees Twenty Lakhs) per year, the notional income",,,

fixed by the Tribunal of Rs.60,000/- (Rupees Sixty Thousand) each per month, is much more reasonable. It is no longer res integra that Income Tax",,,

Returns are reliable evidence to assess the income of a deceased, reference whereof can be made to Amrit Bhanu Shali v National Insurance Co.",,,

Ltd., (2012) 11 SCC 738 Para 17; Kalpanaraj v Tamil Nadu State Transport Corporation, (2015) 2 SCC 764 Para 7, and K Ramya (supra)",,,

Para 14.,,,

12. The observations, as under, in Sushma (supra) fortify our view:",,,

7. Therefore in the matter of determining the compensation certain larger aspects have to be kept in perspective and even if it is expected that the Bakery",,,

business is continued, the loss due to the death of the husband and his expertise in such business certainly would be at least to the extent of 50% of the normal",,,

way in which the business was conducted

13. K Ramya (supra), wherein it was, inter alia, held as below, also supports the case put forth by the appellants:",

11. At the outset, it is pertinent to reiterate the concept of just compensation under Section 168 of the Act. It is a settled proposition, now through a

catena of decisions National Insurance Co. Ltd. v Pranay Sethi, (2017) 16 SCC 680 including the one rendered by the Constitution Bench in Pranay Sethi Helen",

C Rebello v Maharashtra State Road Transport Corporation, (1999) 1 SCC 90; United India Insurance Co. Ltd. v Patricia Jean Mahajan, (2002) 6 SCC 281",

New India Assurance Co. Ltd. v Charlie, (2005) 10 SCC 720, and; National Insurance Co. Ltd. v Indira Srivastava, (2008) 2 SCC 763. 13 National Insurance Co.",

Ltd. v Pranay Sethi, (2017) 16 SCC 680, that compensation must be fair, reasonable and equitable. Further, the determination of quantum is a fact-dependent",

exercise which must be liberal and not parsimonious. It must be emphasized that compensation is a more comprehensive form of pecuniary relief which involves a

broad-based approach unlike damages as noted by this court in Yadava Kumar v. Divisional Manager, National Insurance Co. Ltd. (2010) 10 SCC 341. The

discussion in the abovementioned cases highlights that Tribunals under the Act have been granted reasonable flexibility in determining just compensation

compensation and are not bound by any rigid arithmetic rules or strict evidentiary standards to compute loss unlike in the case of damages. Hence, any

interference by the Appellate Courts should ordinarily be allowed only when the compensation is exorbitant or arbitrary

12. Furthermore, Motor Vehicles Act of 1988 is a beneficial and welfare legislation Ningamma v United India Insurance Co. Ltd., (2009) 13 SCC 710 that seeks

to provide compensation as per the contemporaneous position of an individual which is essentially forward-looking. Unlike tortious liability, which is chiefly

concerned with making up for the past and reinstating a claimant to his original position, the compensation under the Act is concerned with providing stability

and continuity in peoples' lives in the future. (See Peter Cane, Atiyah's Accidents, Compensation and the Law (7th Edition, Cambridge University Press)

2006) 411-412) Keeping the abovementioned principles in the backdrop, we now move on to the facts at hand.

xxx

17. The mere fact that the Deceased's share of ownership in these businesses ventures was transferred to the Deceased's minor children just before his death or to

the dependents after his death is not a sufficient justification to conclude that the benefits of these businesses continue to accrue to his dependents. On the

contrary, it has come on record that the Deceased was actively involved in the day-to-day administration of these businesses from their stage of infancy, had

undergone specialized training to administer his business and that the audit reports neatly delineate Deceased's share of income from the businesses. These facts

necessitate that the entire amount from the business ventures is treated as income. Similarly, the amount earned from the bank interests and remaining investments",,

must also be included as income. " (sic),,

(emphasis supplied),,

14. Even otherwise, we are satisfied that between the formula applied by the Tribunal vis-a-vis the approach adopted by the High Court, the view of",,

the Tribunal rendered in the form of the Award satisfies our judicial conscience. The High Court's reasoning militates against settled law. For the,,

reasons aforesaid and adopting a holistic view, we find that the Impugned Judgment of the High Court deserves to be interfered with. It is",,

accordingly, set aside. The Award passed by the Tribunal stands restored; payments in terms thereof be made by R1 to the appellants, after",,

deducting/adjusting the amounts, if any already paid, within a period of 6 (six) weeks, reckoned from today.",,

15. The appeals stand disposed of in the aforesaid manner.,,

16. No order as to costs.,,