

Lakkamma vs The Regional Manager M/S United India ... on 2 March, 2021

Bench: Sanjay Kishan Kaul, Hemant Gupta

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 808 OF 2021
(arising out of SLP No. 28794/2016)

LAKKAMMA & ORS.

APPELLANT

VERSUS

THE REGIONAL MANAGER M/S UNITED INDIA
INSURANCE CO. LTD. & ANR.

RESPONDENT

O R D E R

Delay condoned subject to the petitioners being disentitled to interest for period of delay for any enhancement.

Leave granted.

The appellants are the family members of deceased Gurusiddappa who unfortunately passed away in an accident while he was going on a bicycle on the extreme left side of the road near Canara Bank, Pumasagar Hotel at Sikka N. Sikka, Kachnayakanahalli Road, Bommasandra, Bangalore.

It is the finding of fact that the accident was caused by the rash and negligent driving of the driver of the lorry which dashed against the bicycle. The Motor Accident Claims Tribunal determined the total compensation as Rs. 3,19,000/- with interest at 6% from the date of the petition vide award dated 20.12.2010.

In the appeal preferred by the claimants the compensation was enhanced to Rs.5,76,500/-in terms of the impugned judgment dated 27.01.2014.

The SLP was filed belatedly by the claimants seeking condonation of delay of 704 days, which delay has been condoned today on terms aforesaid.

In the conspectus of the aforesaid, we had asked learned counsel for respondent No.1 to file the calculations in terms of the judgment of this Court in National Insurance Company Limited vs. Pranay Sethi & Ors.- (2017) 16 SCC 680 as law had been settled therein and the only aspect to be

examined would be whether the forums below have determined the compensation in terms thereof.

The respondent No. 1-Insurance Company has filed the calculations and we have heard learned counsel for parties on that aspect.

We are in agreement with the calculations filed by the Insurance company, except on following counts:

a) the annual income having been determined at Rs.

4,500/- by the High Court, we would not like to interfere with the same and reduce the same to Rs. 3,000/-.

b) The deduction on account of dependents should be 1/4th as the age of the Son has not been disclosed and only three dependents have been taken into account because the Son has attained maturity. Maturity itself would not disentitle the Son as it would depend what is the exact age of the Son.

Learned counsel for the Insurance Company also contends that though interest would be payable at 9% per annum in view of judgment in National Insurance Company Limited vs. Pranay Sethi & Ors.- 2017 (16) SCC 680, there has been considerable delay in preferring the SLP and thus, interest should not be admissible for the period of delay which is of 704 days. We agree with the aforesaid submission of the learned counsel for the Insurance company.

In view of the aforesaid position the amounts admissible would be as under:

“1. Annual Income : Rs.4,500 X 12 = Rs.36,000 = Rs.54,000/-

2. Dependents = 4 hence 1/4th deduction as per Sarla Verma Vs DTC (2009)6 SCC 121

3. Annual Loss of Income (54,000-13500) = Rs.40,500

4. Multiplier = 11

5. Future Prospects = 10%

6. Annual loss of income = (Rs.40,500+10% (40,500 Future Prospects) Rs.44,500

7. Total loss of income: Rs.44,500X11 = Rs.4,90,500/-

8. Conventional heads : Rs.77,000

9. Total = Rs.5,67,050

10. Interest: 9% from 1.10.2009 (date of petition) to 2.3.2021 = Rs.5,83,052 (4170 days)

11. Interest leviable for 3466 days as the petitioner filed the present SLP with a delay of 704 days.(4170 days-704 days) = Rs.4,84,618

12. Total as on date: Rs.5,67,050 + Rs.4,84,618 = Rs.10,51,668.” The impugned order is modified to the aforesaid extent and the compensation is, accordingly enhanced.

The appeal is, accordingly allowed, leaving the parties to bear their own costs.

The differential amount be remitted within a period of two months.

.....J. [SANJAY KISHAN KAUL]J. [HEMANT GUPTA] NEW DELHI;

MARCH 02,2021.

ITEM NO.8

Court 9 (Video Conferencing)

SECTION IV-A

S U P R E M E C O U R T O F
RECORD OF PROCEEDINGS

I N D I A

Petition for Special Leave to Appeal (C)

No. 28794/2016

(Arising out of impugned final judgment and order dated 27-01-2014 in MFA No. 9334/2011 passed by the High Court Of Karnataka At Bengaluru) LAKKAMMA & ORS. Petitioner(s) VERSUS THE REGIONAL MANAGER M/S UNITED INDIA INSURANCE CO. LTD. & ANR. Respondent(s) (IA No. 1/2016 - CONDONATION OF DELAY IN FILING IA No. 2/2016 - CONDONATION OF DELAY IN REFILING/CURING THE DEFECTS) Date : 02-03-2021 This matter was called on for hearing today. CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL HON'BLE MR. JUSTICE
HEMANT GUPTA For Petitioner(s) Mr. Anand Sanjay M. Nuli, Av.

Mr. Suraj Kaushik, Av.

Mr. Agam Sharma, Adv.

Mr. Dharm Singh, Adv.

M/S. Nuli & Nuli, AOR For Respondent(s) Mr. Amit Kumar Singh, AOR Mrs. K Enatoli Sema, Adv.

UPON hearing the counsel the Court made the following O R D E R Delay condoned subject to the petitioners being disentitled to interest for period of delay for any enhancement.

Leave granted.

The appeal is allowed, leaving the parties to bear their own costs in terms of the signed order.

The differential amount be remitted within a period of two months.

(CHARANJEET KAUR) (POONAM VAID) ASTT. REGISTRAR-cum-PS COURT MASTER (NSH) [Signed order is placed on the file]

- Calculations submitted by the counsel, enclosed herewith, is taken on record.