

Rajani vs The Oriental Insurance Company Limited on 5 September, 2022

Bench: D.Y. Chandrachud, Hima Kohli

CA 6194/2022

1

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No 6194 of 2022
(Arising out of SLP (C) No 28559 of 2019)

Rajani and Others

Versus

The Oriental Insurance Company Limited
and Others

WITH

Civil Appeal No 6195 of 2022
(Arising out of SLP (C) No 28715 of 2019)

ORDER

Civil Appeal No 6194 of 2022 @ SLP (C) No 28559 of 2019 1 Leave granted.

2 The High Court of Kerala allowed a First Appeal against a judgment of the Motor Accident Claims Tribunal¹ dated 30 January 2017. The MACT awarded an amount of Rs 26,75,000 taking into account the base income of the deceased as Rs 12,000 per month. The High Court reduced the income computed from Rs 12,000 to Rs 10,000. In doing so, the High Court relied upon the decisions of this Court in Ramachandrappa vs Manager, Royal Sundaram Alliance Insurance Company Limited² and Syed Sadiq vs Divisional Manager, United India Insurance Co Ltd³, where

this Court had reckoned the monthly income in those cases at Rs 4,500 and Rs 6,500 per month in the context of accidents which took place in 2004 and 2008 respectively.

3 In the present case, the deceased was a pineapple cultivator. The accident took place on 1 October 2015. In such matters, a robust view has to be taken of the quantum of earnings since documentary evidence may not be available to specifically prove the quantum of earnings of a self-cultivating agriculturist. In our view, the income which was adopted by the MACT of Rs 12,000 per month cannot be regarded as disproportionate or arbitrary. Hence, there was no justification for the High Court to interfere with the award by reducing the quantum of income of the deceased from Rs 12,000 1“MACT” 2(2011) 13 SCC 236 3(2014) 2 SCC 735 to Rs 10,000 per month.

4 Having regard to the above circumstances, we are of the view that the total quantum of compensation of Rs 26,75,000 should be restored and we order accordingly do so in view of the facts which are noted above. 5 The appeal is allowed in the above terms.

6 The balance that is due and payable to the appellants shall be paid over within a period of one month together with interest at the rate of 9% per annum.

7 Pending applications, if any, stand disposed of. Civil Appeal No 6195 of 2022 @ SLP (C) No 28715 of 2019 1 Leave granted.

2 The High Court of Kerala allowed a First Appeal against a judgment of the Motor Accident Claims Tribunal dated 11 November 2016. The MACT awarded an amount of Rs 24,59,000 taking into account the base income of the deceased as Rs 15,000 per month. The High Court reduced the income computed from Rs 15,000 to Rs 10,000. In doing so, the High Court relied upon the decisions in Ramachandrappa vs Manager, Royal Sundaram Alliance Insurance Company Limited⁴ and Syed Sadiq vs Divisional Manager, United India Insurance Co Ltd⁵, where this Court has reckoned the monthly income in those cases at Rs 4,500 and Rs 6,500 per month in the context of accidents which took place in 2004 and 2008 respectively. 3 In the present case, the deceased was a carpenter. The accident took place on 3 May 2015. In such matters, a robust view has to be taken on the quantum of earnings since documentary evidence may not be available to specifically prove the quantum of earnings of a self-skilled worker. The income which was adopted by the MACT of Rs 15,000 per month cannot be regarded as disproportionate or arbitrary. Hence, there was no justification for the High Court to interfere with the award by reducing the quantum of earnings of the deceased from Rs 15,000 to Rs 10,000 per month. 4 Having regard to the above circumstances, we are of the view that the total quantum of compensation of Rs 24,59,000 should be restored and we order accordingly in view of the facts which are noted above. 5 The appeal is allowed in the above terms.

6 The balance that is due and payable to the appellant shall be paid over within a period of one month together with interest at the rate of 9% per annum.

4(2011) 13 SCC 236 5(2014) 2 SCC 735 7 Pending applications, if any, stand disposed of.

.....J. [Dr Dhananjaya Y Chandrachud]J.
[Hima Kohli] New Delhi;

September 05, 2022
CKB

ITEM NO.43

COURT NO.2

SECTION XI-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No.28559/2019 (Arising out of impugned final judgment and order dated 06-08-2019 in MACA No.1420/2017 passed by the High Court of Kerala at Ernakulam) RAJANI & ORS. Petitioner(s) VERSUS THE ORIENTAL INSURANCE COMPANY LIMITED & ORS. Respondent(s) WITH S.L.P.(C) No.28715/2019 (XI-A) (With I.R. and IA No.186627/2019-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)
Date : 05-09-2022 This petition was called on for hearing today. CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD HON'BLE MS. JUSTICE HIMA KOHLI For Petitioner(s) Mr. Romy Chacko, AOR For Respondent(s) Mr. Ved Vyas Tripathi, Adv.

Mr. Shubham Saurav, Adv. Ms. Srishti Prakash, Adv. Mr. Binam Shukla, Adv.

Mr. Umang Tripathi, Adv. Mr. Navin Prakash, AOR Mr. Vivek Narayan Sharma, AOR Mr. Ajay Singh, Adv.

Mr. Ram Kumar, Adv.

UPON hearing the counsel the Court made the following O R D E R 1 Leave granted.

2 The appeals are allowed in terms of the signed order.

3 Pending applications, if any, stand disposed of.

(CHETAN KUMAR)
A.R. -cum-P.S.

(SAROJ KUMARI GAUR)
Court Master

(Signed order is placed on the file)