

Om Kavar vs United India Insurance Co.Ltd. on 29 January, 2020

Bench: D.Y. Chandrachud, Hemant Gupta

CA 801/2020

1

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Civil Appeal No 801 of 2020
(Arising out of SLP (C) No 27489 of 2018)

Smt Om Kanwar and Others

Versus

United India Insurance Company
Ltd

ORDER

1 Leave granted.

2 This appeal arises from a judgment and order of a learned

High Court of Judicature for Rajasthan in a first appeal arising out of an award of the Motor Accident Compensation Tribunal¹. The accident took place on 2 January 2014. The victim was a bus conductor employed with a private transporter. The bus collided with a truck and as a result, he succumbed to the injuries. The appellants are the legal heirs of the deceased, who submitted a claim for compensation. The MACT, by its award dated 22 July 2015, held that the negligence of both the drivers involved in the accident was proved. Taking the minimum wages of the deceased at Rs 5,000 per month, the total compensation payable to the appellants was assessed at Rs 9,23,000. In appeal, the High Court enhanced the compensation to Rs 9,53,000. Interest has been awarded at the rate of six per cent per annum.

1“MACT” 3 Two submissions have been urged in support of the appeal. The first is in regard to the age of the deceased since that would have a bearing on the correct multiplier to be applied. The order of the Tribunal indicates that during the course of evidence, the first claimant, Smt Om Kanwar (AW 1) brought on record Exhibit 16 which was the school certificate issued by the Principal of the Government Secondary School Raithalia, Makrana. The date of birth reflected in the secondary school certificate was 1 November 1974. Since the accident took place on 2 January 2014, the deceased was thirty-nine years and two months old on the date of the accident. The Tribunal

preferred the Aadhar card to the secondary school certificate and noted that the year of birth of the deceased was mentioned as 1971 in the Aadhar card. On this basis, the Tribunal came to the conclusion that since the deceased was between 41 to 45 years of age, the multiplier that would have to be applied was 14.

4 We find considerable merit in the submission which has been urged on behalf of the appellants by the learned counsel, Mr Maruf Khan. The date of birth was duly proved by means of the school certificate, which was marked in the evidence as Exhibit 16. That being the position, and since the deceased was less than forty years of age, the correct multiplier to be applied ought to be 15 and not 14. 5 The Tribunal has, in the course of its judgment, noted the contention of the appellants that the deceased was drawing a total salary of Rs 11,000 per month. However, AW 3, during the course of his cross-examination, stated that there was no document to establish this fact. Having regard to the preponderance of probabilities, the Tribunal assessed the monthly income of the deceased at Rs 5,000 per month. We are of the view that it would be appropriate to proceed on the basis that the net income of the deceased was Rs 5,000 per month, after making due allowances for one-third personal expenses since the deceased was married. Hence, taking the net income at Rs 5,000 per month, the annual income of the deceased would be Rs 60,000. On this amount, the future prospects would have to be computed at the rate of thirty per cent. Taking the future prospectus in a total sum of Rs 18,000, the income of the deceased would be Rs 78,000. Taking the multiplier of 15, this would result in a figure of Rs 11,70,000. Adding to this amount conventional heads, as determined by the Constitution Bench in National Insurance Company Limited vs Pranay Sethi and Others 2, the total compensation payable would work out to Rs 12,45,000.

6 We accordingly allow the appeal and enhance the compensation which has been awarded by the High Court to the total figure of Rs 12,45,000. Interest on the enhanced amount at the rate of six per cent per annum would be payable from the date of the accident till the date of payment. There shall be no order as to costs.

.....J. [Dr Dhananjaya Y Chandrachud]
.....J. [Hemant Gupta] New Delhi;

January 29, 2020

2(2017) 16 SCC 680

ITEM NO.12

COURT NO.7

SECTION XV

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

I N D I A

SMT OM KANWAR AND OTHERS

Appellant(s)

VERSUS

UNITED INDIA INSURANCE CO. LTD.

Respondent(s)

Date : 29-01-2020 This appeal was called on for hearing today. CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD HON'BLE MR. JUSTICE HEMANT GUPTA For Appellant(s) Mr. Maruf Khan, Adv.

Mr. Praveen Kumar, Adv.

Mr. Prateek Tiwari, Adv. Mr. Ansar Ahmad Chaudhary, AOR For Respondent(s) Dr. Anand Vardhan Sharma, Adv.

Mr. Kailash Prashad Pandey, AOR Mr. Sanjay, Adv.

Mr. V.K. Vashdev, Adv.

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

The appeal is allowed in terms of the signed order.

(Chetan Kumar)
A.R. -cum-P.S.

(Saroj Kumari Gaur)
Court Master

(Signed order is placed on the file)