

M.H. Uma Maheshwari vs United India Insurance Co.Ltd. on 12 June, 2020

Equivalent citations: AIR 2020 SUPREME COURT 5038, AIRONLINE 2020 SC 587, 2020 (4) AKR 639

Author: R. Subhash Reddy

Bench: Surya Kant, R. Subhash Reddy, N.V. Ramana

C.A.@SLP(C)No.19221 of 2018

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2558 OF 2020
[Arising out of S.L.P.(C)No.19221 of 2018]

M.H. Uma Maheshwari & Ors.

Versus

United India Insurance Co. Ltd. & Anr.

JUDGMENT

R. Subhash Reddy, J.

1. Leave granted.

2. This civil appeal is filed by the claimants in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') in MVC No.1639 of 2012 before the Motor Accident Claims Tribunal-VI and III Addl. Sr. Civil Judge, Mangalore, D.K. (for short, 'the Tribunal'), aggrieved by the judgment dated 20.07.2017 passed in Misc. First Appeal No.4903 of 2016 by the High Court of Karnataka at Bengaluru. Reason: 3. Necessary facts in brief are as under :

The deceased S.T. Devaraju was the husband of first appellant and father of appellant

nos.2 and 3. On 16.07.2012 when he was travelling in the car, viz., Tata Indigo Manza bearing registration no.KA- 19-MC-5879 to Raichur, the said car met with an accident. The deceased Devaraju suffered severe injuries and subsequently died. The deceased Devaraju was working as Commissioner of Raichur City Municipal Corporation during the relevant time.

4. The appellants herein, alleging that accident occurred due to rash and negligent driving of the driver of the vehicle, filed claim petition under Section 166 of the Act claiming compensation of Rs.2,00,00,000/-

with interest at the rate of 12% p.a. It was the case of the appellants that the deceased was drawing monthly salary of Rs.55,000/- and he was the KGS Cadre officer selected through Public Service Commission. Further pleading that due to untimely death of the deceased, the appellants lost dependency and the deceased was having bright future, the above said claim was made. The claim was opposed by the respondents by filing the written statement. The appellants have led oral and documentary evidence before the Tribunal. The first appellant was examined as PW-1 and on their behalf the other two witnesses were examined as PW-2 and PW-3 and documents Ex.P1 to P24 were marked. On behalf of the respondents, no oral evidence was adduced and only a copy of the Insurance Policy was marked as exhibit, with consent.

5. The Tribunal, by considering the oral and documentary evidence on record, has recorded a finding that the accident occurred due to negligent driving of the driver of the vehicle and proceeded to quantify the compensation. Having regard to the evidence on record, the Tribunal, by recording a finding that the deceased was earning Rs.50,463/- p.m. by way of salary, by applying the principles laid down in the case of Sarla Verma & Ors. v. Delhi Transport Corporation & Anr.¹ applied the multiplier of 13 and by giving 30% towards future prospects, arrived at a compensation of Rs.1,02,33,912. Out of the said sum, by deducting 1/3rd towards the personal expenditure and 10% towards income tax, the Tribunal has held that the appellant-claimants were entitled to a compensation of Rs.61,40,347.20 towards loss of dependency. By further awarding an amount of Rs.1,00,000/- towards loss of consortium to the first appellant and Rs.3,00,000/- for all the appellants towards loss of love and affection and Rs.20,000/- towards funeral expenses against the claim of Rs.2,00,000/-, the Tribunal has awarded the total compensation of Rs.65,60,347.20.

6. Aggrieved by the award of the Tribunal, the first respondent – United India Insurance Co. Ltd. has preferred Misc. First Appeal No.4903 of 2016 before the High Court of Karnataka at Bengaluru. The award of the Tribunal was mainly assailed before the High Court on three grounds, namely, that as the deceased was over 50 years of age, the Tribunal committed error in computing the future prospects at 30%; 1 (2009) 6 SCC 121 secondly it was the case of the first respondent that as the first appellant was claiming family pension, deduction should have been made while computing the loss of dependency; and thirdly by awarding the compensation of Rs.1,00,000/- to the first appellant towards loss of consortium, the Tribunal again granted compensation of Rs.3,00,000/- to all the appellants under the head ‘loss of love and affection’. The High Court, on the ground that the deceased was aged 50 years 3 months on the date of accident, has come to the conclusion that the appellants are entitled to compensation on account of loss of dependency by computing future

prospects of the deceased at 15% and not 30%. Further it was held that by awarding an amount of Rs.1,00,000/- towards loss of consortium to the first appellant, the Tribunal has committed error by awarding Rs.1,00,000/- to the first appellant towards the head 'loss of love and affection'. With the aforesaid findings, the High Court has re- calculated the compensation payable to the appellants at Rs.57,78,480/-, i.e., Rs.54,33,480/- towards loss of dependency; Rs.1,00,000/- towards loss of consortium; Rs.2,00,000/- towards of love and affection to the children; Rs.25,000/- towards funeral expenses and Rs.20,000/- towards transportation of dead body.

7. We have heard Sri Shekhar Devasa, learned counsel appearing for the appellants and Ms. Neerja Sachdeva, learned counsel appearing for the 1st respondent-Insurance Company and perused the material on record. Though notice is served on respondent no.2, he remains unrepresented.

8. The Tribunal, by recording a finding that the deceased was in the age group of 40 to 50 years, applied the multiplier of 13 while calculating the compensation. The High Court, curiously while maintaining the multiplier of 13 as per the judgment of this Court in the case of Sarla Verma¹, has reduced the compensation only on the ground that the deceased was aged 50 years 3 months on the date of the accident, as such the compensation is to be calculated on account of loss of dependency by granting future prospects at 15% but not 30%. So far as the application of multiplier of 13 by the Tribunal is concerned, the High Court has not interfered with the same. When the age of the deceased was considered in the group of 40 to 50 years, we are of the view that the High Court has committed error in granting only 15% towards future prospects instead of 30%. As per the judgments of this Court primarily the age group is to be considered. Considering the age group as 40 to 50 years, when the multiplier of 13 is maintained by the High Court, there is no reason or justification for reducing the compensation by granting 15% towards future prospects. Though the learned counsel appearing for respondent no.1-Insurance Company has submitted that the compensation towards future prospects was awarded as per the Constitution Bench judgment of this Court in the case of National Insurance Company Limited v. Pranay Sethi & Ors. ² but at the same time it is to be noticed that in the very same judgment in paragraph 59.3 while considering the grant of future prospects, this Court has ² (2017) 16 SCC 680 specifically said that the addition should be 30% if the age of the deceased was in the age group of 40 to 50 years. For application of multiplier, the High Court has also accepted the age group of the deceased between 40 and 50 years. In that view of the matter, there is no reason for reducing the compensation by granting future prospects at 15% only. In absence of any challenge to the findings recorded by the High Court confirming the application of multiplier of 13, we are of the view that the High Court has committed error in reducing the compensation on account of loss of dependency. For loss of love and affection, when the compensation of Rs.1,00,000/- on account of loss of consortium was awarded to the first appellant, she was not entitled for another Rs.1,00,000/- towards the same but, at the same time though the appellants have claimed Rs.2,00,000/- towards transportation of dead body and funeral expenses, only an amount of Rs.20,000/- and Rs.25,000/- was awarded towards the respective heads. Taking into account the facts and circumstances of the case, we are of the view that even such grant of Rs.1,00,000/- ought not have been reduced by the High Court.

9. For the aforesaid reasons, we are of the view that the compensation awarded by the Tribunal is just and reasonable and the same was interfered with by the High Court without any valid grounds,

as such, we allow this appeal and set aside the judgment dated 20.07.2016 passed in Misc. First Appeal No.4903 of 2016 (MV-D) by the High Court of Karnataka at Bengaluru and restore the award dated 29.09.2015 passed in MVC No.1639 of 2012 by the Motor Accident Claims Tribunal-VI and III Addl. Sr. Civil Judge, Mangalore. No order as to costs.

.....J. [N.V. RAMANA]J. [R. SUBHASH
REDDY]J. [SURYA KANT] New Delhi.

June 12, 2020.