

Supreme Court of India

Bhagirati K.R. Naik (Smt) And Anr. vs Oriental Fire & General Insurance ... on 27 January, 1998

Equivalent citations: 1998 ACJ 705, 1998 VIAD SC 25, AIR 1998 SC 2965, JT 1998 (4) SC 306, (1998) 119 PLR 627, (1998) 3 SCC 143

Bench: S Majmudar, S Kurdukar

ORDER

1. Leave granted.

2. Respondent 1 Insurance Company is represented by its counsel. It is the main contesting respondent. Respondent 2 is served and he has not chosen to contest this proceeding. In our view, the order of the High Court challenged in this appeal cannot be sustained for obvious reasons. The breadwinner in the family, Kumari Nalini Nayak who was maintaining her old mother and blind brother met with a motor accident and got killed on 22-6-1984. The result was that the appellant-claimants were left destitutes. They filed a claim petition before the Motor Accidents Claims Tribunal claiming a total compensation of Rs 2 lakhs. On adjudication of the claim the Tribunal awarded a sum of Rs 1,32,000 as compensation. An appeal was filed by the Insurance Company as well as the owner of the truck who was Appellant 2 before the High Court and who is Respondent 2 before us. The High Court in the said appeal reduced the compensation to Rs 1 lakh. In our view the said decision of the High Court cannot be sustained. Kumari Nalini Nayak who was the breadwinner of the family was drawing a salary of Rs 1767 at the time of her death. She had a lucrative earning career before her if she had not died prematurely. Under these circumstances, considering her future economic prospects if she would not have died, at least Rs 1000 per month would have been made available to the claimants i.e. the old mother and blind brother as Kumari Nalini Nayak was a spinster and she had decided not to marry in order to support her old mother and blind brother. Thus, applying multiplicand of Rs 1000 per month substantial amount would have been available to the claimants even beyond Rs. 1,32,000 as awarded by the Tribunal. However, the claimants were satisfied with the amount of Rs 1,32,000 and they had not filed any cross-appeal or cross-objection against the order of the Tribunal. Under these circumstances, we fail to appreciate as to how the High Court felt satisfied in reducing the compensation amount of Rs 1,32,000 as awarded by the Tribunal to Rs 1 lakh, Only on this, short ground the compensation amount of Rs 1,32,000 awarded by the Tribunal to the claimants is restored. Respondent 1-Insurance Company has already deposited Rs 1 lakh. Balance amount of Rs 32,000 with the accrued interest shall be deposited by Respondent 1 within six weeks from today before the Tribunal. As the Tribunal has directed investment of an amount of Rs 90,000, therefore, the balance amount of Rs 10,000 as well as the additional amount of Rs 32,000 as per the present order shall be paid over to the appellants with interest as accruing due. The appeal is accordingly allowed. The judgment and order of the High Court are set aside. The award of the Tribunal is restored.