

Supreme Court of India

Donat Louis Machado And Ors. vs L. Ravindra And Ors. on 5 December, 1997

Equivalent citations: 1999 ACJ 1400, (1998) 8 SCC 633

Bench: S Majmudar, S Kurdukar

ORDER

1. Leave granted. Though Respondents 1 and 2 are served, nobody has put in an appearance for them.

2. The short question is as to what is the appropriate compensation payable to the claimants on account of the death of their breadwinner on whom they were depending. The claimants are the parents and sister of the deceased. The fatal incident occurred to one Aloysius Felix Machado, who was a journalist driving a motorcycle which was run over by the offending car on 1-1-1988. The car was insured by the owner, Respondent 2 with Respondent 3 Insurance Company. On account of this fatal injury caused to the said driver of the motorcycle, his parents and his unmarried sister, who were depending on him, filed the present claim petition before the Motor Accidents Claims Tribunal, Bangalore. They joined the driver of the car, the owner thereof and the Insurance Company as Opponents 1, 2 and 3. The Tribunal after recording evidence and considering the same came to the conclusion that the fatal accident was caused on account of rash and negligent driving by the driver of the car. The Tribunal then proceeded to compute compensation to be awarded to the claimants and arrived at a total figure of Rs. 52,800 which was made payable with 9% interest from the date of filing the petition till date of payment. This amount was made payable jointly and severally by the three opponents including Respondent 3, the Insurance Company. There was a direction that the Insurance Company shall make the payment awarded within three months from the date of the judgment. The claimants carried the matter in appeal seeking enhanced compensation. The respondent did not challenge the award of compensation as granted by the Tribunal. In the claimants' appeal the High Court thought it fit to enhance the compensation and raised it to Rs. 1,27,000 and made it payable jointly and severally by all the three respondents. The claimants in search of further enhanced compensation have come to this Court by way of this appeal on special leave.

3. We have heard learned counsel for the appellant-claimants as well as learned counsel for the Insurance Company, who is the real contesting party at this stage and who has to bear the burden of total amount of compensation made payable to the claimants. We may note certain salient features of the case which are not in dispute. The deceased was earning Rs. 2500 per month in his vocation as a journalist at the relevant time. He was aged 31 years when his life was cut short because of the unfortunate accident. Learned counsel for the claimants contended that he was also earning extra income, but as there is no clear evidence, we will proceed on the basis that he was earning Rs. 2500 per month at least. As he died at a comparatively younger age of 31 years, he had a very lucrative career before him for a number of years had he survived. Therefore, we can easily visualise that his total earnings would have gone up by at least Rs. 5000 per month by the time he would have rested on his oars and given up his work as a journalist after exhausting his full earning career. Consequently, the total amount would work out at Rs. 7500 per month during the whole span of future career and taking an average at 50%, his future monthly income during the rest of the life

could have worked out at Rs. 3750. On that basis, 12 months' earning would have been Rs. 45,000 and adopting a multiplier of 15 looking to the young age of the deceased the total economical gain to his estate would work out at Rs. 6,75,000 at least. But taking a conservative figure of Rs. 6 lakhs it can easily be visualised that the claimants who are the parents and unmarried sister and who are dependent on him would have got at least  $\frac{1}{3}$  amount as he would have spent the rest of  $\frac{2}{3}$  amount of his earnings on his own family which he would have raised and on himself. This would come to a figure of Rs. 2 lakhs. This can easily be treated to be the appropriate compensation payable to the claimants on account of economical loss suffered by them as a result of the unfortunate accident to their breadwinner. The High Court has granted the compensation of Rs. 1,27,000 so that the remaining amount which can be assessed as payable by the respondents would be Rs. 73,000 more.

4. We, therefore, allow this appeal partly by directing the respondents to pay an additional amount of Rs. 73,000 jointly and severally with 9% interest on the additional amount of Rs. 73,000 from the date of filing the claim petition till payment of this additional amount. Respondent 3 Insurance Company, will, therefore, have to pay the additional amount of Rs. 73,000 with 9% interest as aforesaid to the claimants. This amount shall be deposited in the Tribunal by Respondent 3 Insurance Company towards the full and final satisfaction of the appellants' claim within a period of eight weeks from today. The appellants will be entitled to withdraw the same from the Tribunal on giving due identification of the claimants concerned. There shall be no order as to costs in the facts and circumstances of the case.