

(Non-Reportable)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 10018 OF 2017

(Arising out of SLP (C) No. 36105 of 2014)

Smt. Surekha & Ors.

....Appellant(s)

Versus

The Branch Manager,
National Insurance Co. Ltd.

...Respondent(s)

J U D G M E N T

MOHAN M. SHANTANAGOUDAR, J.

Leave granted.

2. This appeal is directed against the judgment of the High Court of Karnataka dated 5th April, 2014 passed in MFA No. 30749 of 2012 (WC), seeking enhancement of compensation.

The records reveal that Mr. Anand (the deceased) met with an accident while driving Mahindra Temp Trax bearing No. KA023/M-7391 during the course of his duty and

sustained severe injuries. He died during the course of treatment leaving behind his wife, child and aged parents.

The appellants (wife, child and parents) claimed compensation before the Commissioner for Workmen's Compensation and Labour Officer, DN-II, Bijapur.

3. The Commissioner while assessing the compensation held that the income of the deceased was at Rs.4,000/- per month, took 50% of the same, and by adding Rs.5,000/- for funeral expenses quantified the compensation at Rs.3,94,120/- with interest @ 12% per annum from the date of expiry of one month of the award.

Aggrieved by the Award of compensation of the Commissioner, the appellants filed an appeal before the High Court. The High Court assessed the income of the deceased at Rs.5,500/-. With 50% of the wages at Rs.2,750/- and by applying relevant factor of 197.06, the compensation payable was determined at Rs.5,41,915/-. Under the Provisions of Section 4(4) of the Act, the appellants are entitled to a maximum of Rs.5,000/- incurred towards funeral expenses.

Therefore, the High Court awarded Rs.5,46,915/- in toto with interest @ 12% per annum from the date of expiry of one month of the date when the amount was due.

4. The learned counsel for the appellants argued that the Commissioner, as well as the High Court is not justified in deducting 50% of the wages while quantifying compensation. It is further submitted that the income of the deceased should have been assessed at Rs.6,000/- per month.

The arguments of the learned counsel that it is not open for the High Court to deduct 50% of the wages while quantifying the compensation is unacceptable, inasmuch as it is mandatory as per Section 4 of the Employee's Compensation Act, 1923 that the amount of compensation should be based on an amount equal to 50% of the monthly wages of the deceased multiplied by relevant factor. Section 4 reads thus:

“Section 4: Amount of compensation.- (1)

Subject to the provisions of this Act, the amount of compensation shall be as follows, namely:-

(a) where death results from the injury : An amount equal to fifty per cent of the monthly wages of the deceased *[employee] multiplied by the relevant factor;
or

an amount of *[one lakh and twenty thousand rupees], whichever is more;

**** ***** ****

Explanation I.--For the purposes of clause (a) and clause (b), "relevant factor", in relation to a *[employee] means the factor specified in the second column of Schedule IV against the entry in the first column of that Schedule specifying the number of years which are the same as the completed years of the age of the *[employee] on his last birthday immediately preceding the date on which the compensation fell due.

*** **** ****

(4) If the injury of the *[employee] results in his death, the employer shall, in addition to the compensation under sub-section (1), deposit with the Commissioner a sum of *[not less than five thousand rupees] for payment of the same to the eldest surviving dependant of the *[employee] towards the expenditure of the funeral of such *[employee] or where the *[employee] did not have a dependant or was not living with his dependant at the time of his death to the person who actually incurred such expenditure.]”

5. The Commissioner as well as the High Court had found that the deceased was aged about 35 years at the time of his death. He had to look after his wife, child and aged parents. Though the evidence on record clarifies that the deceased was getting Rs.6,000/- per month and Rs. 100/- as daily Bhatta,

the High Court without any reason assessed the income of the deceased at Rs.5,500/- per month. The daily Bhatta earned by the deceased usually would have been spent for his personal purposes. Consequently the entire wages of Rs.6,000/- could have been utilized by him for the maintenance of his big family.

6. Having regard to the totality of factors, we deem it proper to hold that the deceased was earning Rs.6,000/- per month. In the matter on hand, the Commissioner as well as the High Court had rightly assessed the compensation by multiplying relevant factor of 197.06 with 50% of wages as mentioned supra. So also the appellants are entitled to a maximum of Rs.5,000/- towards funeral expenses as per Section 4(4) of the Act.

7. Since the income of the deceased was at Rs.6,000/- per month, with 50% of the wages at Rs.3,000 by multiplying relevant factor of 197.06, and by adding Rs.5000/- towards funeral expenses, the net compensation payable would be Rs.5,96,180/- with interest @ 12% per annum from the date of expiry of one month from the date of death of the deceased.

Out of the enhanced compensation, a sum of Rs.1,00,000/- shall be deposited in the name of appellant No. 2 Varsha, the daughter of the deceased till she attains the age of majority and the excess amount shall be shared amongst the other appellants. The judgment of the High Court is modified accordingly. The appeal is allowed in part to the above extent. No costs.

.....J.
(R.K. Agrawal)

.....J.
(Mohan M. Shantanagoudar)

New Delhi
Dated: 03rd August, 2017