

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No(s). 8960/2017

MUHAMMED @ KUNJUMHAMMED

Appellant(s)

VERSUS

UNITED INDIA INSURANCE CO. LTD. & ORS.

Respondent(s)

WITH

Civil Appeal. No. 8961/2017

WITH

Civil Appeal. No. 11128/2017

O R D E R

Civil Appeal No(s). 8960/2017

The appellant is before this Court seeking further enhancement of the compensation as against the amount awarded by the High Court of Kerala in respect of the accident which occurred on 23.01.2008, the appellant was before the Motor Accidents Claims Tribunal (*for short 'MACT'*), wherein after consideration of the evidence placed before it, the Tribunal had awarded the sum of Rs.8,40,400/- (Rupees Eight Lakhs Forty Thousand and Four Hundred Only). The monthly income of the appellant was notionally reckoned at Rs.3,500/- (Rupees Three Thousand Five Hundred Only) per month.

In the appeal filed by the appellant(s) herein before the High Court, though, other aspects of the matter had been kept as it is, the High Court had reckoned the notional income at Rs. 7,000/- (Rupees Seven Thousand Only) per month and had enhanced the compensation to Rs.9,95,900/- (Rupees Nine Lakhs Ninety Five Thousand Nine Hundred Only).

It is in that light, the appellant is before this Court seeking further enhancement of the compensation.

Having heard the learned counsel for the appellant and having perused the material on record, it is clear that the only aspect which requires consideration in the instant appeal is with regard to the quantum of the compensation to be awarded by taking note of the appropriate income of the claimant. In that regard, though, no material insofar as the definite income of the appellant has been placed on record, as noted, the document at exhibit A-51 is a copy of the passport and in that light, the appellant had contended that the he was doing certain business in Abu Dhabi, UAE and was a NRI.

Even if, the said aspects are taken into consideration, the same would not determine the actual income of the appellant. However, keeping in view that the appellant had travelled abroad and had worked for sometime, it would be appropriate to enhance the compensation by taking note of a higher amount as the monthly income. In our view, it would be appropriate to reckon the income at Rs.9,000/- (Rupees Nine Thousand) per month. The future prospects, keeping in view the age of the appellant, will have to be reckoned at 10% of the said amount, which would be in a sum of Rs.9,900/- (Rupees Nine Thousand Nine Hundred Only) per month. If

the appropriate multiplier of '11' is applied, the amount annually would be in a sum of Rs.13,06,800/-

Since the Tribunal as well as High Court has taken note that the appellant had suffered disability of 25% as per the Exhibit-4 but reckoned less, we reckon at 25% and the amount equivalent to the same is to be awarded to the appellant. Accordingly, the same would be in a sum of Rs.3,26,700/- (Rupees Three Lakhs Twenty Six Thousand Seven Hundred Only).

In addition, since we have reckoned the salary at Rs.9,000/- (Rupees Nine Thousand Only) per month, the difference of amount towards loss of earning during treatment will have to be added. If the same is taken note and the amount awarded on the other heads by the MACT and enhanced by the High Court is taken into account, it will add up to Rs.8,19,000/- (Rupees Eight Lakhs Nineteen Thousand Only). The total therefore, would be in a sum of Rs. 11,45,700/- (Rupees Eleven Lakhs Forty Five Thousand Seven Hundred Only). On deducting the sum of Rs. 9,95,900/- (Rupees Nine Lakhs Ninety Five Thousand Nine Hundred Only) awarded by the High Court, the appellant will be entitled to the enhanced compensation of Rs. 1,49,800/- (Rupees One Lakh Forty Nine Thousand Eight Hundred Only) with interest at 8% per annum.

The enhanced portion of the compensation with interest shall now be deposited by the respondent-Insurance Company before the MACT within six weeks from the date of the receipt of a copy of this judgment whereupon, the MACT shall disburse the amount to the claimant.

In the above terms, the appeal is disposed of.

Pending application(s), if any, shall stand disposed of.

Civil Appeal. No. 8961/2017

The appellant is before this Court seeking further enhancement of the compensation as against the amount awarded by the High Court of Kerala in respect of the accident which occurred on 23.01.2008. The appellant was before the Motor Accidents Claims Tribunal (*for short 'MACT'*), wherein after consideration of the evidence placed before it, the Tribunal had awarded the sum of Rs.6,46,050/- (Rupees Six Lakhs Forty Six Thousand And Fifty Only) whereas the High Court has enhanced the compensation to Rs. 7,58,150/- (Rupees Seven Lakhs Fifty Eight Thousand One Hundred and Fifty Only).

The only question that arises for consideration is the quantum of compensation by reckoning the appropriate notional income of the claimant.

In that regard, there is no dispute to the fact that the appellant is a homemaker, and at the point when the accident occurred, the appellant was aged about 28 years and the material on record indicates that the appellant was pregnant.

It is in that basis, an appropriate compensation had been sought by the appellant.

At the first instance, the MACT taking into consideration all aspects, had awarded the compensation of Rs.6,46,050/- (Rupees Six Lakhs Forty Six Thousand And Fifty Only), which was thereafter enhanced by the High Court to Rs.

7,58,150/- (Rupees Seven Lakhs Fifty Eight Thousand One Hundred and Fifty Only). The MACT, to arrive at such compensation had reckoned the notional income at Rs.3,000/- (Rupees Three Thousand Only) per month which had been enhanced by the High Court to Rs.4,000/- (Rupees Four Thousand Only). In that regard, we note that the accident being of the year 2008, and even if in respect of unskilled worker, if a sum of Rs.200/- (Rupees Two Hundred Only) per day could be reasonable, we see no reason why the same should not be adopted in respect of a home-maker. In that view, we find it appropriate to reckon the income, in the present facts, at Rs.6,000/- (Rupees Six Thousand) per month. 40% of the same, is to be added as future prospects, the total will be in a sum of Rs.8,400/- (Rupees Eight Thousand Four Hundred Only) per month.

If the same is taken on the annual basis and the multiplier of '17' is applied, it would be in a sum of Rs. 17,13,600/- (Rupees Seventeen Lakhs Thirteen Thousand Six Hundred Only)

Since, the accepted disability in the proceedings before the MACT as well as before the High Court is 40%, 40% of the said amount in a sum of Rs. 6,85,440/- is awarded. Hence, the enhancement on this head is in a sum of Rs.3,59,040/-

Further, the undisputed fact is that the pregnancy of the appellant had to be terminated. For a married woman, who was aged about 28 years at the time of the accident and the trauma undergone, the compensation as awarded by the MACT is on the

lower side on that head. Hence, a further sum of Rs. 2,00,000/- (Rupees Two Lakhs Only) is awarded towards agony and the trauma.

Hence, in all, the appellant is entitled to the enhanced compensation of Rs.5,59,040/- with interest at 8% per annum, after deducting the amount which has already been awarded and paid by the respondent-Insurance Company. The enhanced portion of the compensation with interest shall be shall now be deposited by the Insurance Company before the MACT within six weeks from the date of the receipt of a copy of this judgment whereupon, the MACT shall disburse the amount to the claimant(s).

In the above terms, the appeal is disposed of.

Pending application(s), if any, shall stand disposed of.

Civil Appeal. No. 11128/2017

In respect of the accident which had occurred on 23.1.2008, the appellant-father was before the MACT seeking compensation for the death of his child, which was about eight months when the accident occurred.

Having perused the record, it is noticed that the MACT, taking into consideration the evidence available before it, had awarded the compensation of Rs.2,44,000/- (Rupees Two Lakhs Forty Four Thousand Only) whereas the High Court has enhanced it to Rs.3,00,000/- (Rupees Three Lakhs Only).

In a matter of the present nature, considering the vagaries involved an appropriate compensation cannot be

determined, since the parameters would not be definite. Be that as it may, the agony and the trauma undergone by the parents and siblings, cannot go unnoticed. Further, in the present facts of the case, it is noted that the claimant himself was injured in the accident and was witness to the death of his child. Therefore, keeping all these aspects in view, we find it appropriate that in addition to the compensation already awarded by the High Court, it would serve the ends of justice if a global enhanced compensation of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand Only) is awarded in this appeal.

We order accordingly.

The respondent-Insurance Company shall deposit the said amount of Rs. 2,50,000/- (Rupees Two Lakhs Fifty Thousand Only) before the MACT within six weeks from the date of the receipt of a copy of this judgment whereupon, the MACT shall disburse the amount to the claimant(s).

In the above terms, the appeal is disposed of.

Pending application(s), if any, shall stand disposed of.

.....J.
(A.S. BOPANNA)

.....J.
(S. RAVINDRA BHAT)

New Delhi
01st December, 2022

ITEM NO.105

COURT NO.12

SECTION XI-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G SCivil Appeal No(s). 8960/2017

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Appellant(s)

VERSUS

UNITED INDIA INSURANCE CO. LTD. & ORS.

Respondent(s)

WITH

C.A. No. 8961/2017

C.A. No. 11128/2017

Date : 01-12-2022 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.S. BOPANNA
HON'BLE MR. JUSTICE S. RAVINDRA BHAT

For Appellant(s) Mr. A. Karthik, Adv.
Ms. Sreepriya, Adv.
Mr. Sajith. P, AOR
Mr. Alok Kumar Dwivedi, Adv.
Ms. Anupriya, Adv.
Mr. Benny Antony, Adv.
Mr. P.D. Baby John, Adv.

For Respondent(s) Mr. Binay Kumar Das, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeals are disposed of in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(NISHA KHULBEY)
SENIOR PERSONAL ASSISTANT

(signed order is placed on the file)

(DIPTI KHURANA)
ASSISTANT REGISTRAR