

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.2529 OF 2019
(Arising out of SLP(Civil) No.8957 of 2018)

PAPPULAL

APPELLANT

VERSUS

AATHIF MUJAVAR & ANR.

RESPONDENTS

O R D E R

Leave granted.

The appellant was employed as the Marble Fixer in a marble factory when he met with the vehicular accident on 14.08.2012 suffering serious injuries which ultimately resulted in the loss of his right hand i.e. the working hand. It is the case of the appellant that he is not educated and thus his source of livelihood could only be from a manual job. The appellant was of young age of 21 years at the time of accident and still a bachelor.

The Motor Accident Claims Tribunal allowed the claim of Rs.4,98,240/- along with interest at 8% per annum. The appellant aggrieved by the same has preferred an appeal in terms of the impugned order dated 06.07.2017. The High Court has enhanced the amount by Rs.6,63,000/-. The loss of earning capacity has been assessed at Rs.10,36,800/- while determining the monthly loss of income at Rs.8000/- per month.

The only aspect urged before us is that while determining so, despite the disability certificate certifying the whole body disability at 69%, the High Court has taken the disability at 60%. It is the contention of the learned counsel for the appellant that considering the nature of work it amounts to practically at 100% disability and has referred to the judgment in Anant son of Sidheshwar Dukre Vs. Pratap son of Zhampanappa Lamzane and another - (2018) 9 SCC 450, to buttress his submission.

On perusal of the judgment, we find that the facts are slightly different as that was the case of dependency even of other family members where permanent disability had been assessed at 75%. The aggrieved person had suffered from an accident where rods had to put in the legs and he was deployed as a driver.

We have to balance the factors keeping in mind that undoubtedly the right hand of the appellant has been imputed and thus the appellant at young age cannot work as a specialized worker. On a conspectus of the facts, we are of the view that disability of 80% would be appropriate in given facts and circumstances of the case.

As a result of the aforesaid, the further enhancement, which the appellant would be entitled to, would be as under:

Rs.8000 x 12 x 20/100x18 : Rs.3,45,600

We, thus, allow the appeal to the aforesaid extent and the respondent-Insurance Co. would deposit the enhanced compensation with interest at 8% per annum within four weeks from the date of receipt of the certified copy of this order.

The appeal is, accordingly, disposed of.

.....J.
(SANJAY KISHAN KAUL)

.....J.
(K.M. JOSEPH)

New Delhi
March 06, 2019

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 S

Petition(s) for Special Leave to Appeal (C) No(s).8957/2018

(Arising out of impugned final judgment and order dated 06-07-2017 in MFA No. 1230/2014 passed by the High Court Of Karnataka At Bengaluru)

PAPPULAL

Petitioner(s)

VERSUS

AATHIF MUJAVAR & ANR.

Respondent(s)

Date : 06-03-2019 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

HON'BLE MR. JUSTICE K.M. JOSEPH

For Petitioner(s)

Mr. Shailesh Madiyal, AOR
Mr. Mahesh Thakur, Adv.
Mr. Sudhanshu Prakash, Adv.

For Respondent(s)

Mr. Anil V. Katarki, Adv.
Mr. Anil C. Nishani, Adv.
Mr. T. R. B. Sivakumar, AOR

Mr. P.K. Seth, Adv.
Ms. Manjeet Chawla, AOR

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

Leave granted.

The appeal is disposed of in terms of the signed order.

Pending application(s), if any, stands disposed of.

(ARJUN BISHT)
COURT MASTER (SH)

(ANITA RANI AHUJA)
COURT MASTER (NSH)

(signed order is placed on the file)