

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 20972 OF 2017

SMT. SANJANA & ORS.

Appellant(s)

VERSUS

ARUN SHARMA & ORS.

Respondent(s)

WITH

CIVIL APPEAL NO. 400 OF 2018

J U D G M E N T

CIVIL APPEAL NO. 20972 OF 2017

1. Heard learned counsel for the parties. The appellants are before this Court assailing the judgment dated 27.05.2016 passed by the High Court of Himachal Pradesh at Shimla insofar as the quantum of compensation awarded at a sum of Rs.9,64,160/- while enhancing the amount awarded by the Motor Accident Claims Tribunal (For short 'MACT') on 25.05.2015.

2. The fact of the accident having occurred and the cause of action having arisen for the claim, there is no doubt. The only aspect which requires consideration in this appeal is with regard to the appropriate amount to be awarded towards loss of dependency. In that regard, the claim made was that the deceased

was earning a sum of Rs.10,000/- per month being Rs.6,000/- towards salary and Rs.4,000/- from giving tuition. Even if the nature of evidence tendered and the consideration made by the Tribunal is taken note, insofar as excluding the amount claimed towards the tuition, it is justified.

3. The only aspect to be taken note is the appropriate monthly salary to be reckoned. In that regard, apart from the evidence tendered by the claimant, a co-employee who had worked with the deceased was also examined. In that circumstance in the year 2008, when it is claimed that the deceased was a computer operator, the salary of Rs.6,000/- as claimed, cannot be considered as excessive. If that be the position, the said amount is required to be reckoned and further calculation towards loss of dependency is to be made. Hence, towards the said amount, keeping in view the fact that the deceased had a permanent avocation from which he was earning salary which is lost to the family, the future prospects in the present facts is required to be reckoned at 50%. If the same is done, the total salary would be in a sum of Rs.9,000/- for the purpose of calculation. 1/3rd of the amount is required to be deducted towards personal expenses whereupon the remainder, on taking into consideration the annual loss of dependency, the multiplier of '15' is required to be applied.

4. The compensation would work out to a sum of Rs.10,80,000/- under the head of loss of dependency. The High court has awarded a sum of Rs.8,39,160/- as loss of dependency. The balance amount

of Rs. 2,40,840/- towards loss of dependency shall be the enhanced compensation with interest at 7.5% p.a., in addition to the compensation which has already been awarded by the High Court. The difference of the amount with interest shall be deposited by the Insurance Company before the MACT within six weeks from the date of receipt of a copy of this judgment. On deposit, the MACT shall disburse the same to the claimant(s).

5 In the above terms, the appeal is disposed of.

C.A NO. 400/2018

6 The appellants are before this Court assailing the judgment dated 27.05.2016 passed by the High Court of Himachal Pradesh at Shimla in FAO NO. 128 of 2016.

7 In respect of the accident occurred on 04.11.2008, the appellants herein were before the Tribunal seeking compensation for the death of the husband of the appellant No.1 (1st claimant) and the father of the remaining claimants. The Motor Accident Claims Tribunal (For short 'MACT') through its award dated 22.05.2015 awarded a sum of Rs. 4,26,000/- which was thereafter enhanced to Rs.6,44,800/- by the High Court through its judgment dated 27.05.2016.

8 The claim was that the deceased was working as a carpenter and he had sufficient income which he was providing for the family. Though the 1st claimant-wife in her evidence stated that the deceased was working in the forest department to undertake

wood work and was earning a sum of Rs. 20,000/-, no material was placed in that regard. It is in that view, Tribunal taking note of the avocation, has taken a notional income at Rs.3,000/- per month. The High Court has reckoned the income at Rs.4,500/- per month.

9 In a matter of the present nature, where the accident had occurred in the year 2008 and the deceased was shown to be a skilled labour, the income in any event, cannot be less than Rs.200/- per day even on a conservative estimate. In that view, it would be appropriate to reckon the income at Rs.6,000/- per month. Since even as per the claim made, nothing is shown that he was in regular employment and was undertaking work as and when available, it would be reasonable to take the future prospects at 40% of the monthly income reckoned. 1/4th of the amount is deducted towards personal expenses keeping in view the number of dependents. Loss of dependency per month would be in a sum of Rs.6,300/-. If the same is taken on the annual basis and the multiplier of `14' is applied, the total amount of loss of dependency would be in a sum of Rs. 10,58,400/. The conventional amount of Rs.70,000/- is added to the above amount. Hence, the total amount would at a sum of Rs. 11,28,400/- with interest @ 7.5%. p.a.

10 The amount already awarded and paid shall be deducted and the balance amount shall be deposited by the Insurance Company

within six weeks from the date of receipt of a copy of this judgment before the MACT, whereon the MACT shall disburse the amount to the claimants.

11 In the above terms, the appeal is disposed of.

.....J.
[A.S. BOPANNA]

..... J.
[S. RAVINDRA BHAT]

NEW DELHI;
DECEMBER 01, 2022

ITEM NO.102

COURT NO.12

SECTION XIV-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No. 20972/2017

SMT. SANJANA & ORS.

Appellant(s)

VERSUS

ARUN SHARMA & ORS.

Respondent(s)

WITH

C.A. No. 400/2018 (XIV-A)

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. Anilendra Pandey, AOR
Mr. Brajesh Pandey, Adv.
Ms. Priya, Adv.
Mr. Sanjay Sharma, Adv.

For Respondent(s) Ms. Awantika Manohar, AOR
Mr. Prashant Kumar, AOR
Mr. Naveen Sharma, Adv.

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

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

Pending application(s) shall stand disposed of.

(RAJNI MUKHI)
COURT MASTER (SH)

(DIPTI KHURANA)
ASSISTANT REGISTRAR

(Signed judgment is placed on the file)