2025 INSC 123

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 1162 - 1163 OF 2025

[@ SPECIAL LEAVE PETITION (CIVIL) NOS.33049-33050 OF 2018]

S. VISHNU GANGA & ORS. …APPELLANTS

A1: S. VISHNU GANGA

A2: S. SUDHA MAHESWARI

A3: A. AISHWARYA GANGA

A4: S. SUDHA RANI

VERSUS

M/S ORIENTAL INSURANCE COMPANY LIMITED REP. BY ITS DIVISIONAL MANAGER & ORS. …RESPONDENTS

R1: M/S ORIENTAL INSURANCE COMPANY LIMITED *REP*. BY ITS DIVISIONAL MANAGER

R2: THIRUMURUGAN AGENCY *REP*. BY ITS SOLE PROPRIETOR

R3: M/S TAMIL NADU STATE (ANNA) TRANSPORT CORPORATION LIMITED *REP*. BY ITS MANAGING DIRECTOR

J U D G M E N T

AHSANUDDIN AMANULLAH, J.

Leave granted.

2. The present appeals are directed against the Final Order and Judgment dated 22.12.2017 (hereinafter referred to as the “Impugned

Judgment") passed by a learned Division Bench of the High Court of Judicature at Madras, Bench at Madurai in appeals bearing C.M.A. (MD) Nos.1075 of 2015 and 1076 of 2015 (both filed by the Insurance Company/R1[1]) , against the Award dated 25.11.2014 passed by the learned Motor Accidents Claims Tribunal (hereinafter referred to as the "Tribunal") in Claim Petitions bearing M.C.O.P No.1573 of 2009 and 1574 of 2009. The appeals preferred by R1 were allowed in part and the compensation awarded by the Tribunal was reduced.

BRIEF FACTS:

3. The parents - father and mother - of the appellants were travelling in a *Tempo Traveler* vehicle (hereinafter referred to as the "vehicle") belonging to R2[2] insured with R1 from Salem to Madurai. While the vehicle was near Namakkal, at that time, a bus belonging to R3[3] came from the opposite side and dashed into the vehicle resulting in the unfortunate death of the parents of the appellants. The bus was bearing Registration No.TN30 N0612 and was not insured.

[1] Respondent No.1 herein.
[2] Respondent No.2 herein.
[3] Respondent No.3 herein.

4. The appellants filed M.C.O.P No.1573 of 2009 with regard to the death of their father claiming a total compensation of Rs.1,00,00,000/- (Rupees One Crore). Likewise, they also filed M.C.O.P No.1574 of 2009 claiming compensation to the tune of Rs.1,00,00,000/- (Rupees One Crore) for the death of their mother. The claims made were more or less identical in both cases as the parents of the appellants were partners in a firm and, thus, the calculation(s) made to arrive at the claimed compensation amount(s) was the same. The appellants, in support of their claims, produced various documents including the Partnership Deed dated 01.06.2006, Income Tax Returns of the firm Sri Ganga Mills (hereinafter referred to as the "Mill") for the Assessment Years 2007-2008, 2008-2009, 2009-2010, 2010-2011 and 2011-2012. R1 also filed its written objection(s). After hearing the parties, the Tribunal awarded compensation of Rs.58,24,000/- (Rupees Fifty-Eight Lakhs Twenty-Four Thousand) for the father and Rs.93,61,000/- (Rupees Ninety-Three Lakhs Sixty-One Thousand) for the mother with interest @ 7.5 per cent *per annum* from the date of the filing of the claim petition till realization. It was R1 which filed appeals before the High Court, but R3 did not challenge the Award of the Tribunal.

5. Both the appeals have been decided by the High Court *vide* the common Impugned Judgment. The appeals were partly allowed. Final

compensation, as awarded by the High Court was Rs.26,68,600/- (Rupees Twenty-Six Lakhs Sixty-Eight Thousand Six Hundred) for the father of appellants, whereas for the mother, it was Rs.19,22,680/- (Rupees Nineteen Lakhs Twenty-Two Thousand Six Hundred and Eighty). A comparative overview of the compensation awarded by the Tribunal and High Court is extracted below:

CLAIM	THE TRIBUNAL	THE HIGH COURT
Claimants	4 (daughters of deceased)	
Age	Father: 57 years Mother: 50 years	
Multiplier	Father: 9 Mother: 13	Father: 8 Mother: 12
Income	Father: Rs.60,000 p.m.[4] Mother: Rs.60,000 p.m.	Father: Rs.30,000 p.m. Mother: Rs.12,500 p.m.
Future Prospects	Father: Rs.9,000 p.m. Mother: Rs.18,000 p.m.	Father: Rs.3,000 p.m. Mother: Rs.3,125 p.m.
Loss of Income	Father: Rs.55,89,000 Mother: Rs.91,26,000	Father: Rs.24,33,600 Mother: Rs.16,87,680
Loss of Love and Affection	Father: Rs.2,00,000 Mother: Rs.2,00,000	
Conventional Head (Transportation + Cremation Charges)	Father: Rs.35,000 Mother: Rs.35,000	
Award	Father: Rs.58,24,000 Mother: Rs.93,61,000 Interest @ 7.5 p.a.[5]	Father: Rs.26,68,600 Mother: Rs.19,22,680

[4] Abbreviation for *per mensem* or per month.

		Interest @ 7.5 p.a.

SUBMISSIONS BY THE APPELLANTS:

6. Learned counsel for the appellants submitted that the High Court by the Impugned Judgment without any reasoning has upset the Award on the ground that the income from the Mill was not reduced due to the death of the deceased, and the appellants have stepped into the business of the deceased parents and the business continued after the deaths.

7. Learned counsel submitted that the High Court erred by relying on a judgment of the High Court of Karnataka[6] in ***B Parimala v Riyaz Ahmed*, 2000 SCC OnLine Kar 446** to hold that the relevant factors to see for the prevailing loss of the income of the deceased is the remuneration received by them from the Mill and not the income of the Mill, which is contrary to what has been held in Paragraphs 18, 20, 22, 23 and 27 of the relied upon judgment itself i.e., ***B Parimala*** (*supra*), holding that when a person is an active partner and has also contributed

[5] Abbreviation for *per annum*.
[6] Incorrectly noted in the Impugned Judgment as '*High Court of Karnataka Vs. Riyaz Ahamed*' (sic).

to the capital, then a judicious decision will have to be made of the income to determine the income attributable to the efforts of the deceased and income attributable to the investment made. Further, it was contended that ***K Ramya v National Insurance Co. Ltd.*, 2022 SCC OnLine SC 1338** at Paragraphs 17 and 18, has held that merely because the deceased's share of ownership in the business was transferred to the children is not sufficient justification to conclude that the benefits of his business continue to accrue to his dependents. It was also submitted that a Coordinate Bench of this Court on 15.09.2022 in **Civil Appeal Nos.6671-6672 of 2022 (*Sushma H.R. & Anr. v Deepak Kumar Jha & Ors.*)**[7] had held that in view of the young age of the appellants, without experience, it cannot be expected that the business can be run by them in the same manner as it was run by the deceased.

8. It was submitted that in this background, the view of the High Court that the appellants had stepped into the shoes of the deceased by becoming partners in the firm and that they did not suffer any pecuniary loss in the business is also incorrect for the reason that the firm was being run by the parents of the appellants. The appellants were added as partners at the age of about 24, 22, 18 and 18 years respectively, but were not participating in the business for which the evidence of PWs 3, 8

[7] **2022 SCC OnLine SC 2166**.

and 10 were relied on. It was submitted that the evidence showed that due to the death of the parents, there was a downfall in the number of workers employed which reduced to 138 from 202, including technical workers as the firm was unable to pay their salaries on time. Further, it was contended that RW-1, who was the Chartered Accountant of the firm, had specifically admitted that the loss was to the tune of Rs.68,00,000/- (Rupees Sixty Eight Lakhs). Further, learned counsel submitted that the appellants had filed the Mill's Income Tax Returns from AY[8] 2005-2006 to AY 2011-2012 to show reduced profits. Yet, the High Court, relying on some statements, without considering the whole evidence and the context in which such statements were made, decided to reduce the compensation awarded. It was the contention of the learned counsel that the multiplier of 8 instead of 9 was applied in the case of the father and 12 in place of 13 with regard to the mother which was against settled law.

9. It was submitted that even the Tribunal had not fully appreciated the facts of the case and failed to apply the law as was required to be done, but the High Court had caused further damage by drastically reducing the compensation awarded, leading to a miscarriage of justice. Moreover, it was contended that, in fact, R1 had challenged only 50 per

[8] Abbreviation for Assessment Year.

cent of the total amount awarded by the Tribunal, but the High Court reduced the awarded amount by more than 50 per cent with regard to the father and 80 per cent with regard to the mother, way beyond what was sought for by R1.

SUBMISSIONS BY R1:

10. Learned counsel for R1 submitted that the claims made by the appellants were exorbitant and even the Tribunal's Award was on the much higher side, than what was actually due and admissible to the appellants. It was submitted that rightly, the High Court reduced the quantum of amount awarded. It was argued that reduction was made after considering the evidence led by the appellants, especially of PW-8, PW-9 and PW-10. It was stated that the cases referred to by the appellants did not apply to the facts of the present cases. Lastly, it was contended that the Impugned Judgment needs no interference.

ANALYSIS, REASONING AND CONCLUSION:

11. Having examined the matter, the Court finds that the Award rendered by the Tribunal is well-considered. Though the claimed compensation was Rs.1,00,00,000/- (Rupees One Crore) each with

regard to the father and the mother, the Tribunal granted Rs.58,24,000/- (Rupees Fifty-Eight Lakhs Twenty-Four Thousand) *re* the father and Rs.93,61,000/-(Rupees Ninety-Three Lakhs Sixty-One Thousand) *re* the mother. The documents produced by the appellants and the reasoning given by the Tribunal as well as the Karnataka High Court's Division Bench judgment in ***B Parimala*** (*supra*) indicate, and in our opinion, rightly so, that merely because the appellants stepped into the shoes of the deceased, by such factum itself, the appellants would not be capable of running the Mill. It would be of relevance as to whether due to their lack of experience and maturity, real/expected downfall in the profitability of the firm or the business would ensue. Such factor, while considering a claim pertaining to loss of future income/earnings, would have to be dealt with. In the present cases, even the monthly incomes of the parents as claimed by the appellants i.e.. income of the father being Rs.25,00,000/- (Rupees Twenty-Five Lakhs) per year and the mother's being Rs.20,00,000/- (Rupees Twenty Lakhs) per year, the notional income fixed by the Tribunal of Rs.60,000/- (Rupees Sixty Thousand) each per month, is much more reasonable. It is no longer *res integra* that Income Tax Returns are reliable evidence to assess the income of a deceased, reference whereof can be made to ***Amrit Bhanu Shali v National Insurance Co. Ltd.*****, (2012) 11 SCC 738**[9]; ***Kalpanaraj v Tamil Nadu***

[9] Para 17.

State Transport Corporation*, (2015) 2 SCC 764**[10], and ***K Ramya (*supra*)[11].

12. The observations, as under, in ***Sushma*** (*supra*) fortify our view:

> '***7.*** *Therefore in the matter of determining the compensation certain larger aspects have to be kept in perspective and even if it is expected that the Bakery business is continued, the loss due to the death of the husband and his expertise in such business certainly would be at least to the extent of 50% of the normal way in which the business was conducted…*'

13. ***K Ramya*** (*supra*), wherein it was, *inter alia*, held as below, also supports the case put forth by the appellants:

> '***11.*** *At the outset, it is pertinent to reiterate the concept of 'just' compensation under Section 168 of the Act. It is a settled proposition, now through a catena of decisions*[12] *including the one rendered by the Constitution Bench in Pranay Sethi*[13] *that compensation must be fair, reasonable and equitable. Further, the determination of quantum is a fact-dependent exercise which must be liberal and not parsimonious. It must be emphasized that compensation is a more comprehensive form of pecuniary relief which involves a broad-based approach unlike damages as noted by this court in Yadava Kumar v. Divisional Manager, National Insurance Co. Ltd.*[14]*. The discussion in the abovementioned cases highlights that Tribunals under the Act have been granted reasonable flexibility in determining 'just' compensation and are not bound by any rigid arithmetic rules or strict*

[10] Para 7.
[11] Para 14.
[12] ***Helen C Rebello v Maharashtra State Road Transport Corporation*, (1999) 1 SCC 90**; ***United India Insurance Co. Ltd. v Patricia Jean Mahajan*, (2002) 6 SCC 281**; ***New India Assurance Co. Ltd. v Charlie*, (2005) 10 SCC 720**, and; ***National Insurance Co. Ltd. v Indira Srivastava*, (2008) 2 SCC 763**.
[13] ***National Insurance Co. Ltd. v Pranay Sethi*, (2017) 16 SCC 680**.
[14] **(2010) 10 SCC 341**.

evidentiary standards to compute loss unlike in the case of damages. Hence, any interference by the Appellate Courts should ordinarily be allowed only when the compensation is 'exorbitant' or 'arbitrary'.

12. *Furthermore, Motor Vehicles Act of 1988 is a beneficial and welfare legislation*[15] *that seeks to provide compensation as per the contemporaneous position of an individual which is essentially forward-looking. Unlike tortious liability, which is chiefly concerned with making up for the past and reinstating a claimant to his original position, the compensation under the Act is concerned with providing stability and continuity in peoples' lives in the future.*[16] *Keeping the abovementioned principles in the backdrop, we now move on to the facts at hand.*

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17. *The mere fact that the Deceased's share of ownership in these businesses ventures was transferred to the Deceased's minor children just before his death or to the dependents after his death is not a sufficient justification to conclude that the benefits of these businesses continue to accrue to his dependents. On the contrary, it has come on record that the Deceased was actively involved in the day-to-day administration of these businesses from their stage of infancy, had undergone specialized training to administer his business and that the audit reports neatly delineate Deceased's share of income from the businesses. These facts necessitate that the entire amount from the business ventures is treated as income. Similarly, the amount earned from the bank interests and remaining investments must also be included as income.*' (sic)

(emphasis supplied)

14. Even otherwise, we are satisfied that between the formula applied by the Tribunal *vis-a-vis* the approach adopted by the High Court,

[15] ***Ningamma v United India Insurance Co. Ltd.*, (2009) 13 SCC 710**.
[16] *See* Peter Cane, *Atiyah's Accidents, Compensation and the Law* (7th Edition, Cambridge University Press, 2006) 411-412.

the view of the Tribunal rendered in the form of the Award satisfies our judicial conscience. The High Court's reasoning militates against settled law. For the reasons aforesaid and adopting a holistic view, we find that the Impugned Judgment of the High Court deserves to be interfered with. It is, accordingly, set aside. The Award passed by the Tribunal stands restored; payments in terms thereof be made by R1 to the appellants, after deducting/adjusting the amounts, if any already paid, within a period of 6 (six) weeks, reckoned from today.

15. The appeals stand disposed of in the aforesaid manner.

16. No order as to costs.

……J.
[SUDHANSHU DHULIA]

……J.
[AHSANUDDIN AMANULLAH]

NEW DELHI
JANUARY 29, 2025