

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2523 OF 2020
[ARISING OUT OF SPECIAL LEAVE TO APPEAL (CIVIL)
NO(s). 16688 OF 2018]

NIRMALA & ORS.

.....Petitioner(s)

VERSUS

THE ROYAL SUNDARAM ALLIANCE
INSURANCE CO. LTD & ANR.

.....Respondent(s)

ORDER

Leave granted.

2. The appellants are aggrieved by a judgment dated 17.01.2018 through which the Dharwad Bench of the High Court of Karnataka reduced compensation for a motor vehicle accident awarded by the Fast Track Court – III at Belagavi from Rs 18,33,000 to Rs 14,75,000.

3. The deceased, forty-year-old Siddappa, was travelling along with others from Naganur to Belgaum on 03.07.2012, when near the Fire Extinguish Office at Hukkeri, a rash and negligently driven ‘Tipper’ vehicle lost control and rammed into his Swift car. All occupants of the car sustained injuries and were rushed to the KLE Hospital, Belgaum for treatment. Deceased-Siddappa was later shifted to Government Hospital, Hukkeri where on 06.07.2017 he succumbed to his injuries. A claim for Rs 30,00,000 as motor accident compensation was consequently filed by his mother, wife (PW-1) and three children before the Fast Track Court – III at Belagavi.

4. Whilst adjudicating the quantum of compensation, the Tribunal specifically analysed the statement of the wife of the deceased (PW-1) wherein she had claimed that her husband was an agriculturist earning approximately Rs 4,00,000 per annum, with another Rs 12,000 per month from his side-business of milk vending. After due deliberation, the Tribunal concluded that although the deceased was an agriculturist, however, he was not the sole owner of the claimed land, and instead was jointly cultivating some dry land of which only 1 acre 3 guntas had crops. Further, the Tribunal noted that no corroborative evidence had been produced to support the appellant's claim that her husband was simultaneously earning Rs.12,000 per month from milk vending. It thus resorted to a rule of thumb, and used the general cost of living in the area for a family of five to estimate an annual income of Rs 1,50,000. After accounting for personal expenses and age, a total of Rs 16,87,500 was awarded as loss of dependency by the Tribunal, and approximately another Rs 1,45,000 was awarded for loss of consortium, estate, funeral and medical expenses.

5. The Tribunal's total award of Rs 18,33,000 was appealed by the insurance company (Respondent No. 1) before the High Court of Karnataka, which in turn reduced the monthly income from Rs 12,500 to Rs 8,000. In doing so, the Division Bench noted that the Tribunal had contradicted itself, as although in the preceding part of Para 23 it had observed that the appellant's claim of her husband earning Rs 12,000 per month was unsubstantiated by evidence, nevertheless it had assessed annual income at Rs 1,50,000 (or Rs 12,500 per

month). Accordingly, it independently re-determined the deceased's income and after accounting for future prospects, personal income and age, determined the loss of dependency at Rs 13,50,000. It also reduced the compensation awarded under the other heads of loss of consortium, loss of estate and funeral expenses to arrive at a total figure of Rs 14,75,000.

6. Thus, the solitary question which arises for our consideration is whether the High Court was justified in its finding of contradiction and consequently in reducing the deceased's income?

7. Having heard learned counsel for both sides, we find that the Division Bench of the High Court misread the Tribunal's observations in Para 23, and thus wrongly concluded that there was an internal contradiction between its observation of lack of evidence and subsequent assessment of the deceased's income. A close scrutiny of the Tribunal's judgment shows that its observations on lack of corroborating evidence applied to only the milk-vending part of the appellant's claim, and that the deceased could not be said to have been earning Rs 12,000 every month from only this side business. However, such a finding does not comment upon the deceased's income from agriculture and hardly implies that the total income necessarily ought to be below Rs 12,000 per month. It was only upon consideration of all background information, including the size of the deceased's family and average living expenses for agriculturists that the Tribunal determined a total annual income of Rs 1,50,000. Indeed, this comprises both the deceased's incomes from milk vending and agriculture, and does not by any

measure seem unreasonable. Thus, the very foundation of the High Court re-assessing the deceased's income and reducing total compensation is not supported by the record, and must be reversed.

8. For the reasons aforesaid, we allow the appeal and set aside the impugned order of the High Court of Karnataka. The original compensation of Rs.18,33,000 awarded by the Fast Track Court is restored, with interest @ 9% per annum.

9. No order as to costs.

.....J.
[N.V. RAMANA]

.....J.
[R. SUBHASH REDDY]

.....J.
[SURYA KANT]

New Delhi;
June 08,2020.

ITEM NO.19

Virtual Court 2

SECTION IV-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 S

Petition for Special Leave to Appeal (C) No.16688/2018

(Arising out of impugned final judgment and order dated 17-01-2018 in MFA No. 101514/2015 passed by the High Court of Karnataka Circuit Bench at Dharwad)

NIRMALA & ORS.

Petitioner(s)

VERSUS

THE ROYAL SUNDARAM ALLIANCE INSURANCE CO. LTD & ANR. Respondent(s)

Date : 08-06-2020 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA
HON'BLE MR. JUSTICE R. SUBHASH REDDY
HON'BLE MR. JUSTICE SURYA KANT

For Petitioner(s)

Mr. Anand Sanjay M. Nuli, Adv
Mr. S. Suraj Kaushik, Adv.
For M/s.Nuli & Nuli, AOR

For Respondent(s)

Mr. G. Balaji, AOR

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

The Court is convened through Video Conferencing.

Leave granted.

The appeal is allowed in terms of the signed order.

(VISHAL ANAND)
COURT MASTER (SH)

(RAJ RANI NEGI)
ASSISTANT REGISTRAR

(Signed Order is placed on the file)