

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(s).2311-2313 OF 2000

RAMESHWAR DAYAL & ORS.

Appellant (s)

VERSUS

SAIRA KHANGTHEN & ANOTHER

Respondent(s)

(With office report)

Date: 12/04/2006 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. SRIKRISHNA

HON'BLE MR. JUSTICE LOKESHWAR SINGH PANTA

For Appellant(s)

Mr. Aruneshwar Gupta, Adv.

Mr. Naveen Kumar Singh, Adv.

For Respondent(s) Mr. Vishnu Mehra, Adv.

Mr. B.K. Satija, Adv.

UPON hearing counsel the Court made the following

O R D E R

The Appeal is partly allowed in terms of the signed order. No order as

to costs.

Bhatia)

(K.K. Chawla)

(Radha R.

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.2311-2313 OF 2000

RAMESHWAR DAYAL & ORS.

APPELLANTS

VERSUS

SAIRA KHANGTHEN & ANOTHER

RESPONDENTS

O R D E R

These three appeals are directed against the Judgment of the High

Court of Jammu and Kashmir at Jammu in the matter of compensation awarded

by the Motor Accidents Claims Tribunal and enhanced by the High Court.

Being dissatisfied with the amount of compensation enhanced by the High Court,

the original claimants are before this Court in Appeal.

The facts are not in dispute. One Mohan Lal Khandelwal aged about 42 years, who was the proprietor of an Electrical business, along with his wife

Smt. Kamla Devi, aged about 38 years, housewife and partner in the firm of her

husband, and their son Jitendra Kumar, aged about 17 years, were travelling in

a bus from Srinagar to Delhi via Jammu. On failure of the bus driver to

negotiate a bend, the bus fell into a nullah resulting in the death of Mohan Lal

Khandelwal and Smt. Kamla Devi and injuring Jitendra Kumar.

Four sons of Mohan Lal Khandelwal and Smt. Kamla Devi, as legal

heirs, inclusive of Jitendra Kumar, filed claims before the Motor Accidents

Claims Tribunal seeking compensation for the death of their parents. Jitendra

Kumar made an additional claim with respect to the injury suffered by him and

his alleged disability and loss of earning capacity. The Tribunal awarded a total

sum of Rs.1,20,000/- as compensation for the death of Mohan Lal Khandelwal,

Rs.45,000/- for the death of Smt. Kamla Devi and Rs.25,000/- for the pain and

agony suffered by Jitendra Kumar due to disfigurement of his face, fracture of

collar-bone and incapacity for future earning. The compensation was increased

by the learned Single Judge in Appeal to Rs.1,80,000/- in respect of the death of

Mohan Lal Khandelwal; Rs.45,000/- remained unchanged in respect of the

death of Kamla Devi and Rs.25,000/- in respect of Jitendra Kumar's claim. The

Appellants filed appeals before the Division Bench and the Division Bench of the

High Court increased the compensation payable in respect of Mohan Lal's death

to Rs.3,24,000/-, in respect of the death of Smt. Kamla Devi Rs.1,80,000/- and

Rs.40,000/- in respect of Jitendra Kumar.

The Appellants are not satisfied with this enhancement and are asking for more.

The learned counsel for the appellants contends that the Division Bench

of the High Court has assessed the income of Mohan Lal Khandelwal at

Rs.4000/- per month out of which a sum of Rs.1,000/- was deducted towards

personal expenses and the estimated monthly dependency was about Rs.3,000/-

per month. Since he was aged about 42 years at the time of death, the Tribunal

took a multiplier of 9 and computed the compensation at Rs.3,000/- x 12 x 9 =

Rs.3,24,000/- . In the submission of the learned counsel for the Appellants the

High Court was wrong on two counts; first, it ought to have granted some more

compensation in view of the future expectation of the rise in income of the

deceased Mohan Lal Khandelwal; and also because it took a smaller multiplier in

respect of a man who was hardly 42 years.

Having heard the learned counsel on both sides, we are satisfied that

there is scope for improvement in the compensation payable for death of Mohan

Lal Khandelwal. In General Manager, Kerala S.R.T.C. v. Susamma Thomas,

(1994) 2 SCC 176, it has been stated (vide paragraph 19) that it would be

appropriate to reckon the future prospects of the deceased in the future career

while computing the compensation awarded. In that case, the deceased was aged

about 39 years and the multiplier was taken at 12. Taking both facts into

consideration, we think that it would be just and proper that, including the

future prospects of earning, the compensation should be awarded by taking loss

of income at Rs.4,500/-. Thus, the amount payable as compensation towards the

death of Mohan Lal Khandelwal would be Rs.4,500/- x 12 x 12 = 6,48,000/- .

In respect of the compensation payable towards the death of Smt.

Kamla Devi, the grievance made is that the loss of income at Rs.1,000/- is wholly

improper as it takes into account only her loss of income as a partner of the

husband's Electrical Firm, but totally ignores the fact that as an Indian

housewife she had to do multi-tasking and take care of the multifarious needs

of the family for which no economic estimate has been made. We find that there

is no evidence whatsoever placed on record as to what other jobs she was doing

apart from being a partner in the electrical firm of her husband. We also find no

evidence on record as to how many hours she spent in the Firm's business and

how many hours in attending to the family needs. Finally, we do find that the

only contention urged before the Division Bench of the High Court was that the

Tribunal had wrongly estimated her dependency at Rs.500/- and that her

dependency should have been fixed at Rs.1000/-. The Division Bench of the

High Court has acceded to this argument and computed the compensation

accordingly. We see no reason to differ therefrom.

As far as the claim of Jitendra Kumar is concerned, again we find there

is no evidence on record to show any permanent disability or loss of earning

capacity income that he had suffered on account of fracture of the collar-bone

and permanent disfigurement of the face. The compensation of Rs.25,000/-

awarded to him by the Tribunal has been increased by the Division Bench to

Rs.40,000/-. We think that it is fair and just compensation. There is no scope for

further increase.

In the result, this Appeal succeeds partly. Insofar as the compensation

payable to the appellants towards the death of Mohan Lal Khandelwal is

concerned, the said compensation amount is increased to Rs.6,48,000/-. The rest of the impugned judgment is maintained.

The Appeal is, accordingly, partly allowed. No order as to costs.

.....J.
(B.N. Srikrishna)

.....J.
(Lokeshwar Singh Panta)

New Delhi;

April 12, 2006.