

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 8127 OF 2002

RAMZAN KHAN & ANR

Appellant (s)

VERSUS

NATIONAL INSURANCE CO LTD

Respondent(s)

(With office report)

Date: 30/09/2008 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.V. RAVEENDRAN
HON'BLE MR. JUSTICE LOKESHWAR SINGH PANTA

For Appellant(s) Ms. Poonam Prasad, Adv.
Ms. Laxmi Arvind, Adv.

For Respondent(s) Mr. Pramod Dayal, Adv.
Mr. Nikunj Dayal, Adv.

UPON hearing counsel the Court made the following
ORDER

Appeal is allowed in part in terms of the signed order.

(Ravi P. Verma)
Court Master

(Anand Singh)
Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8127 OF 2002

RAMZAN KHAN & ANR.
.....APPELLANT(S)

Versus

NATIONAL INSURANCE CO. LTD.
.....RESPONDENT(S)

ORDER

This is claimant's appeal. Habib, the son of the appellants died in a motor accident which occurred on 24.11.1988. The deceased was a bachelor aged about 23 years. He was working as a driver and earning Rs.1050/- p.m. as salary apart from daily batta. The claimants who were the parents were aged 58 years and 45 years respectively. The claimants prayed for award of compensation of Rs.4,10,000/-. The

tribunal awarded a compensation of Rs.50,000/-. On appeal, the High Court by its judgment dated 2.7.1998 increased the compensation to Rs.80,000/- with interest at 12% p.a. for a period of five years only. For arriving at the compensation, the High Court calculated the annual contribution to the family as Rs.7800 (Rs.650 x 12). By applying multiplier of 10, the tribunal arrived at the total loss of dependency as Rs.78,000/- and by adding Rs.2000/- towards funeral expenses came to the conclusion that Rs.80,000/- should be the compensation. The judgment of the High Court was rendered on 2.7.1998. The High Court felt that the insurer was not responsible for the long pendency of litigation and therefore restricted the award of interest for a period of five years only.

2. The said judgment is challenged by the claimants on two grounds: (a) the multiplier applied is erroneous, and (b) the interest should not have been restricted to five years.

3. It is now well-settled that where the deceased is a bachelor and the claimants are the parents, the multiplier should be determined not with reference to the age of the deceased but with reference to the age of the parents, in particular the age of the mother. In this case, the mother was aged 45 years. Therefore, the appropriate multiplier was 13 and not 10. The High Court apparently determined the multiplier with reference to the age of the father who was 58 years which is erroneous. There is no dispute in regard to the annual dependency of Rs.7800/- arrived at by the High Court. In the circumstances, the loss of dependency will be $7800 \times 13 = 1,01,400/-$. The claimants will also be entitled to a sum of Rs.5000/- towards loss of estate and Rs.5000/- towards funeral expenses. Therefore, the total compensation will be Rs.1,11,400/-.

4. Insofar as interest is concerned, the reasoning of the High Court that due to long pendency of the litigation the liability of the insurer should be restricted only for a period of five years is not sound. While it is true that the insurer is not responsible for the pendency of the

litigation, it is equally true that the claimants were also not responsible for the pendency of the litigation. If the insurer had voluntarily worked out and paid the just compensation when the accident occurred there would be no reason to fasten any liability for interest on the insurer. Therefore, it would be unjust to deny the claimants, interest for the entire period either on the ground that the litigation was pending for long or the hearing of the case was delayed.

5. We therefore hold that the claimants are entitled to interest from the date of claim petition till the date of payment. It is stated that the amount awarded by the High Court with interest was calculated and a sum of Rs.1,41,682 was deposited on 3.12.2002. Be that as it may.

6. We allow this appeal in part and increase the compensation from Rs.80,000/- to Rs.1,11,400/- Insofar as the interest is concerned, the claimant will be entitled to interest @ 12% p.a. on Rs.80,000/- from the date of claim petition till the date of deposit. Insofar as the amount of compensation increased by this Court, namely Rs.31,400/-, it shall carry interest at the rate of 6% p.a. from the date of claim petition till the date of payment. The insurer is given three months' time to deposit the difference amount with the tribunal. The insurer shall also pay Rs.2500/- as costs to the appellants.

.....J.
(R.V. RAVEENDRAN)

.....J.
(LOKESHWAR SINGH PANTA)

New Delhi;
September 30, 2008.