

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.8053/2024
(@ SLP (C) No.16558/2024)
[Diary No(s). 30309/2021]

KAVITA BALOTHIYA & ORS.

Appellant(s)

VERSUS

SANTOSH KUMAR & ANR.

Respondent(s)

O R D E R

1. Leave granted.
2. This appeal arises out of the judgment and order passed by the High Court of M.P. at Gwalior dated 26-06-2019 in Misc. Appeal No. 691/2016 whereby the High Court allowed the Misc. Appeal but limited the award of the compensation to the extent court fees was paid by the appellants. Paragraph 26 of the judgment is quoted hereunder:

“The Claims Tribunal has awarded Rs.19,55,250/- whereas this Court has held that the claimants are entitled for Rs.28,00,375/-. However, as the claimants have claimed only Rs.4,00,000/- in addition to the awarded amount and has valued their appeal accordingly, therefore, it is held that the claimants shall be entitled for an additional amount of Rs.4,00,000/- only”.

3. Heard the learned counsel appearing for the parties.
4. Compensation claimed by the appellants is Rs.38,34,000/- and the Fourth Motor Accident Claims Tribunal, Gwalior (M.P.) has awarded Rs.19,55,250/- and the High Court has held that the

claimants are entitled for Rs.28,00,375/-. However, noting that the claimants have claimed only Rs.4,00,000/- in addition to the awarded amount, the High Court has confined the entitlement of the compensation for the additional amount only at Rs.4,00,000/-.

5. Learned counsel for the appellants has brought to our notice the decision of this Court in "*Mona Baghel & ors. vs. Sajjan Singh Yadav & Ors.* in (Civil Appeal @ out of SLP(C) NO.29207/2018) wherein the Court has observed as under:

"The law is well settled that in the matter of compensation, the amount actually due and payable is to be awarded despite the claimants having sought for a lesser amount and the claim petition being valued at a lesser value.

Our view, is fortified by the decision of this Court in the Case of *Ramla and Others Versus National Insurance Company Limited and Others* 2019 2 SCC 192, wherein, it is held as under :

"Though the claimants had claimed a total compensation of Rs.25,00,000 in their claim petition filed before the Tribunal, we feel that the compensation which the claimants are entitled to is higher than the same as mentioned supra. There is no restriction that the Court cannot award compensation exceeding the claimed amount, since the function of the Tribunal or Court under Section 168 of the Motor Vehicles Act, 1988 is to award "just compensation". The Motor Vehicles Act is a beneficial and welfare legislation. A "just compensation" is one which is reasonable on the basis of evidence produced on record. It cannot be said to have become time-barred. Further,

there is no need for a new cause of action to claim an enhanced amount. The Courts are duty-bound to award just compensation. (See the Judgments of this Court in (a) Nagappa v. Gurudayal Singh, (b) Magma General Insurance Co. Ltd. v. Nanu Ram, (c) Ibrahim v. Raju)."

6. The above decision clearly lays down that there is no restriction upon the court to award compensation exceeding the amount claimed. It is the duty of the Tribunal or Court under Section 168 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act") to award just compensation. Since the Act is a beneficial legislation a "just compensation" is one which is fair and reasonable on the basis of the evidence adduced irrespective of the amount claimed.

7. In view of the above decision, if the appellants are entitled to a higher amount than claimed, they are entitled to be paid the actual compensation as determined by the court.

8. In the case at hand, the appellants had claimed a total sum of Rs. 38,34,000/- and the just and fair compensation that has been determined by the court is Rs. 28,00,375/-, therefore, irrespective of appellants confining the claim in appeal to Rs. 4,00,000/- in addition to the amount awarded by the Tribunal i.e. Rs. 19,55,250/-, the appellants are entitled to the amount of compensation as actually determined by the court i.e. Rs. 28,00,375/-.

9. Learned counsel for the appellants submits that the appellants are ready and willing to amend the memo of appeal so as to claim the initial amount claimed by them i.e. 38,34,000/- instead of confining it to Rs. 4,00,000/- in addition to the amount awarded by the Tribunal and that they will pay deficient court fee, if any, within four weeks.

10. In the light of the above, we permit the appellants to amend the claim amount in the appeal and to pay court fee on the additional amount of the compensation of Rs. 28,00,375/- less the amount awarded i.e. 19,55,250/- and additional amount of Rs. 4,00,000/-, on which court fee appears to be already paid, i.e. Rs. 4,45,125/-, within a period of four weeks from today whereupon the amount of compensation determined by the court shall be paid to the appellants within a further period of four weeks thereafter.

11. The civil appeal is allowed accordingly.

.....J.
[PAMIDIGHANTAM SRI NARASIMHA]

.....J.
[PANKAJ MITHAL]

New Delhi
July 22, 2024.

ITEM NO.42

COURT NO.15

SECTION IV-C

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

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 30309/2021

(Arising out of impugned final judgment and order dated 26-06-2019
in MA No. 691/2016 passed by the High Court Of M.p At Gwalior)

KAVITA BALOTHIYA & ORS.

Petitioner(s)

VERSUS

SANTOSH KUMAR & ANR.

Respondent(s)

(IA No. 163061/2021 - CONDONATION OF DELAY IN FILING
IA No. 163062/2021 - EXEMPTION FROM FILING O.T.)

Date : 22-07-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE PANKAJ MITHAL

For Petitioner(s) Mr. Shishir Kumar Saxena, Adv.
Mr. R.N. Parrek, Adv.
Mr. Brijendra Singh, Adv.
Mr. Jagmohan Pareek, Adv.
Mr. Ajit Kulshreshtha, Adv.
Mr. S.K. Bhandari, Adv.
Mr. Jyotiraditya, Adv.
Mr. Nityanand Mahato, Adv.
Mr. Praveen Swarup, AOR

For Respondent(s) Mr. Atul Nigam, Adv.
Ms. Tanvi Nigam, Adv.
Ms. Parul Sharma, Adv.
Mrs. Priya Puri, AOR

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

1. Delay condoned. Leave granted.
2. The Civil appeal is allowed of in terms of signed order.
3. Pending applications, if any, shall stand disposed of.

(INDU MARWAH)
AR-CUM-PS

(NIDHI WASON)
COURT MASTER (NSH)

(signed order is placed on the file)