

Thenmoli d/o Periasamy v Liew Yee Cheong
[2001] SGHC 116

Case Number : Suit 397/2000/D
Decision Date : 29 May 2001
Tribunal/Court : High Court
Coram : Kan Ting Chiu J
Counsel Name(s) : Daniel Goh (Goh Choon Wah & Co) for the appellant/defendant; Karuppan Chettiar & K Rajendran (Karuppan Chettiar & Partners) for the respondent/plaintiff
Parties : Thenmoli d/o Periasamy — Liew Yee Cheong

JUDGMENT:

Grounds of Decision

1. This matter came on as an appeal against some orders on damages. The damages were assessed following the death of Krishnan A/L Marriappan in a road accident on 11 May 1999. The damages were assessed by an Assistant Registrar on 24 February 2001.
2. The deceased who was born on 23 May 1961 was 38 years old when he died on 11 May 1999. He was survived by his widow the plaintiff and their two daughters, Thevishree and Dharshaini. The plaintiff is working as a staff nurse and was 34 years old at the time of the assessment. Thevishree the elder daughter was 10 years old at that time and the younger daughter Dharshaini was 8 years old. The elder child who is afflicted with cerebral palsy has poor motor skills, refractory epilepsy and severe mental retardation.
3. The awards appealed against were for the loss of dependency of the plaintiff and the children. The awards were split into two categories for pre-trial and post-trial loss of dependency.
4. The damages assessed by the Assistant Registrar were

Pre-trial loss

As the parties agreed that the pre-trial period of loss was 21 months, the Assistant Registrar only set the multiplicands.

Plaintiff - \$200 x 21 months

Elder daughter - \$1000 x 21 months

Younger daughter - \$300 x 21 months

and

Post-trial loss

For the post-trial loss, the Assistant Registrar determined the multiplicands which were raised to take into account future earnings and needs, as well as the multipliers.

Plaintiff - \$400 x 8 years

Elder daughter - \$1200 x 16 years

Younger daughter - \$500 x 10 years

5. The Assistant Registrar found that the joint monthly income of the plaintiff and the deceased was \$3,760. The figure must have been derived from the plaintiff's evidence that the deceased's gross monthly salary at the time of his death was about \$1,760 and that her own gross monthly salary was about \$2,000. She also stated that they each contributed about 80% of their salaries to the family finances.

6. It was common ground that the elder daughter will always need financial support because of her physical and mental disabilities whereas the younger daughter will be dependent up to the time she is able to seek support herself financially.

7. By placing a multiplier of 16 years on the award to the elder daughter, the Assistant Registrar was fixing the deceased's lost working period at 16 years. The figure was on the high end of the range as the deceased was 38 years old when he died, and counsel for the plaintiff was quite right to accept that "the multiplier of 16 cannot be complained of".

8. The plaintiff and the children were content with the Assistant Registrar's awards. The matter came before me on the defendant's appeal.

9. After reading the written submissions and hearing counsel, I found that there was no basis for disturbing the Assistant Registrar's findings on the earnings of the deceased and the plaintiff, the multiplier of 16 years for the deceased's lost earning years and the multipliers for the awards. There are no formulae for the precise determination of these figures, and the figures the Assistant Registrar arrived at were within the acceptable ranges.

10. However two elements of the awards required attention because they arose out of errors of principle which must be rectified. The first was the oversight to adjust the post-trial multipliers. The multipliers set for the post-trial losses apply from the date of the deceased's death, and not the date of trial see *Muthan Sinnathambi v Puran Singh* [1992] 2 SLR 103 following *Cookson v Knowles* [1979] AC 556 @ 575. The 21-month pre-trial period must be deducted from the post-trial multipliers.

11. The second matter relates to the awards to the children. The Assistant Registrar arrived at the multiplicands after considering the submissions on the amounts required for their upkeep. Up to the time of the accident, the children were supported by both their parents. After the accident the support from the deceased was lost, but the support from the plaintiff was unaffected. The loss the children suffered is not the full amounts needed for their upkeep, but the portions of that contributed by the deceased. Counsel for the plaintiff argued that it is the primary duty of the father to maintain the family and that a wrongdoer should not be given the benefit of the wife's earnings. I find little basis for and merit in this unsupported proposition. The wrongdoer should compensate for the losses actually caused and no more. In my view it would be fair and favourable to the children that they receive half the amounts as damages even though the plaintiff earned and contributed more than the deceased.

12. For the reasons stated, I varied the Assistant Registrar's awards to reflect the deduction of the 21 months from the multipliers for the post-trial awards, and to reduce by half the multiplicands for the children's awards. The adjusted awards are

Pre-trial loss

Plaintiff - \$200 x 21 months

Elder daughter - \$500 x 21 months

Younger daughter - \$150 x 21 months

Post-trial loss

Plaintiff - \$400 x 75 months (8 years 21 months)

Elder daughter - \$600 x 171 months (16 years 21 months)

Younger daughter - \$250 x 99 months (10 years 21 months).

13. The plaintiff is unhappy with the reductions and has appealed against them.

Kan Ting Chiu

Judge

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