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Court : Allahabad

Decided On : Apr-24-2007

Reported in : 2007(78)AWC2490

Judge : Rakesh Sharma, J.

Appellant : Km. Pusp Lata and ors.

Respondent : Nirlep Singh and ors.

Disposition : Appeal allowed

Judgement :

Rakesh Sharma, J.

1. This case was listed on the daily cause list of 9.4.2007. The list is being rotated for the last two weeks. The case has come up for hearing today. Considering the facts and circumstances of this case, this Court is of the view that the litigation, which was initiated in the year 1989, claiming enhancement of compensation under the Motor Vehicles Act, must come to a logical end today after 18 years. The appeal was filed in the year 1997 and remained pending for disposal in this Court for the last 10 years.

2. Heard learned Counsel for the appellants and perused the record.

3. Under challenge is an order passed by Motor Accident Claim Tribunal, Mirzapur, dated 22.11.1996 in Motor Accident Claim Petition No. 39 of 1989, Km. Puspa and Ors. v. Nirlep Singh and Ors.

4. The facts of the case emerging from the record is that deceased Shrimati Shanti Devi wife of Prabhakar Pandey, appellant No. 6, was going on foot on 17.3.1989 on Mirzapur--Pipari road when the Tanker bearing registration No. URZ 2060, which was being driven rashly and negligently, hit the woman, as a result of which she was critically injured and when she was being taken to Railway hospital, Chopan, she succumbed to her injuries in the way. A first information report was lodged and the family members of the deceased took required legal action.

5. A claim petition was filed seeking compensation under the Motor Vehicles Act. Earlier the Tribunal had allowed the claim petition on 1.2.1991 awarding the compensation amounting to Rs. 2 lacs with interest. Since this order was ex parte, a recall of the same was sought and thereafter the Tribunal re-heard the matter, four issues were framed. Finally the learned Tribunal awarded only a sum of Rs. 60,000 as compensation.

6. As per the learned Counsel for the appellant, the learned Tribunal had illegally and arbitrarily held that the deceased was simply a house wife and no one was dependent on her. The husband of the deceased was in railway service hence the compensation was reduced from Rs. 2 lacs to a paltry sum of Rs. 60,000 in the latter judgment. According to the appellants, the deceased Shanti Devi was aged about 35 years, a young energetic women, who was engaged in rearing cattle, helping in agricultural activities, and earning about Rs. 1,500 per month by selling milk and other by-products.

7. Once the finding was recorded that the Tanker No. URZ 2060, which was duly insured, was involved in the accident and the death had occurred immediately after the accident and the deceased was an earning member of the family making substantial contribution to the income of the family, the learned Tribunal ought not to have drawn the conclusion which it has recorded while deciding the claim petition.

8. Respondents have not come forward to pursue the case nor any counter-affidavit/objections etc. have been filed. Notices were duly issued and served upon the concerned parties and the matter is pending disposal for the last 10 years.

9. I have heard the learned Counsel for the appellant and also perused the record. Here is a case where a young lady aged about 35 years has died as a result of an accident which occurred at 3.10 p.m. on 17.3.1989 at Mirzapur-Pipari Road near Chopan town due to rash and negligent driving of the tanker. The appellants have brought it on record as evidence that she was rearing cattle, helping in agricultural activities, selling milk and byproducts and was earning Rs. 1,500 per month and thus was augmenting the family income substantially. The findings of the learned Tribunal that generally a woman is not expected to sell milk are improper and erroneous. The learned Tribunal lost sight of the fact that these days women have become much enterprising. The Amul Milk Products, which are being used by most of the people and is one of the biggest Co-operative Society of the country, is being run with the help of lower and middle class rural women in India. The women of Kheda district in Gujarat and other adjoining districts of Gujarat are running this Organization of repute. It is an example of the hard work and labour of the women folk of the villages of western Gujarat, whose endeavour and hard work has laid the foundation stone of an Apex Co-operative Organization like Amul. Thus, the role of the women in Indian Society as homemaker and assisting the man folk in day-to-day work cannot be ignored. Keeping in view the huge contribution of women in the welfare of the family that they have been designated as 'GRIH LAXMI'. It is uncontroversial fact that the deceased was rearing cattle, taking care of five minor children, managing the family, as her husband was in employment and her contribution in augmenting the income of the family ought not to have been ignored. The learned Tribunal ignored the fact that the husband of the deceased Prabhakar Pandey was employed in railway and it was but natural for the deceased to look after the agricultural and other affairs of the family also.

10. In view of the above the finding that the deceased was a house wife and her contribution in the augmentation of the family income was negligible appears to be erroneous. Deceased could have earned Rs. 1,500 per month by selling milk and its by-products. It appears that the finding is based on conjectures and surmises.

11. In view of the facts and circumstances of the case I am of the view that the compensation of Rs. 60,000 is too meagre. Once the same Court had come to the conclusion that Rs. 2 lacs should have been adequate compensation for the loss of human life, then how subsequently the same Court has reduced the compensation to Rs. 60,000 is ridiculous. No such conclusion could be drawn on the same material, which existed, on the date of earlier judgment and on the date of subsequent order passed by the Court. The findings are wholly erroneous, unjust and improper.

12. Keeping a mid way, this Court is of the view that Rs. 1,50,000 should be adequate compensation in this case. Accordingly, the appeal is allowed and the judgment and award of the court below is modified to the extent that the claimants shall be entitled to Rs. 1,50,000 as compensation alongwith interest at the rate of 10 per cent per annum. All the necessary consequences shall follow.

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