

Ram Kumar and ors. Vs. Mahaveer and ors.

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Court : Rajasthan

Decided On : Sep-04-1997

Reported in : 1998ACJ1073

Judge : D.C. Dalela, J.

Appeal No. : S.B. Civil Misc. Appeal No. 717 of 1993

Appellant : Ram Kumar and ors.

Respondent : Mahaveer and ors.

Advocate for Def. : Virendra Agarwal, Adv.

Advocate for Pet/Ap. : K.N. Tiwari, Adv.

Judgement :

D.C. Dalela, J.

1. Heard.

2. This is an appeal against the award dated 7.9.1993 of learned Motor Accidents Claims Tribunal, Jaipur District, Jaipur, in respect of an accident that took place on 5.9.1991, at about 4 p.m., in which Manbhari died. A claim petition was filed by the claimants, who are husband and the parents-in-law of the deceased. The appellants-claimants have preferred this appeal for enhancement of the amount of

compensation awarded by the learned Tribunal. The learned Tribunal has awarded a total compensation of Rs. 45,000/- only.

3. The age of the deceased at the time of accident was 28. According to the Second Schedule of the Motor Vehicles Act, 1988, at this age, the multiplier should be at '16'.

4. Therefore, the multiplier is determined at '16'.

5. The learned Tribunal has assessed the loss of dependency as Rs. 350/- p.m. The learned Tribunal has not taken into account the gratuitous service which a woman renders in the household as wife. The gratuitous service which a woman renders in the household as wife is very important and it should not be lost sight of. Without the gratuitous service of a woman, the household would not be one worth living. Therefore, the loss of dependency on account of the gratuitous service of the deceased as wife, should be taken to be Rs. 350/- p.m. Thus, the total loss of dependency in the case is Rs. 350/- + Rs. 350/- = Rs. 700/- p.m. The loss of dependency with reference to the multiplier comes to Rs. 700/- x 12 x 16 = Rs. 1,34,400/-.

6. The testimony of claimant husband, Ram Kumar, has been shown to me by the learned Counsel at Bar by producing the certified copy of the evidence for perusal.

7. The husband Ram Kumar, AW 3, has stated in the cross-examination that he has no intention to contract the second marriage. There is nothing on record to disbelieve this intention of the husband Ram Kumar, in this regard. The husband is, therefore, entitled to Rs. 15,000/- on account of loss of love and consortium. Thus, the total amount of compensation in this case should be Rs. 1,34,400/- + Rs. 15,000/- = Rs. 1,49,400/-. The total amount of compensation is, therefore, required to be enhanced to this extent.

8. In the result, the appeal is partly allowed. The total amount of compensation is enhanced to Rs. 1,49,400/- from the amount of compensation of Rs. 45,000/- as awarded by the learned Tribunal. To this extent, the award of the learned Tribunal shall stand modified. Other part, terms and conditions of the award are

maintained.

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