

Pingla Devi and ors. Vs. Gopal Lal and ors.

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Court : Rajasthan

Decided On : Jul-03-1996

Reported in : 1997ACJ1020

Judge : Gopal Lal Gupta, J.

Appeal No. : S.B. Civil Misc. Appeal Nos. 344 and 345 of 1991 and 87 of 1992

Appellant : Pingla Devi and ors.

Respondent : Gopal Lal and ors.

Advocate for Def. : Virendra Agrawal, Adv.

Advocate for Pet/Ap. : Sandeep Mathur, Adv.

Judgement :

Gopal Lal Gupta, J.

1. The aforesaid three appeals arise out of the award dated 27.2.1991 passed by the learned Motor Accidents Claims Tribunal, Jaipur, awarding a sum of Rs. 47,500/- in Claim Case No. 644 of 1989, Rs. 3,23,800/- in Claim Case No. 484 of 1989 and Rs. 4,85,800/- in Claim Case No. 297 of 1989.

2. The accident had taken place on 27.1.1989. Mahesh Chandra, B.L. Talang, injured Bhanwar Lal and others were going in a jeep towards Dholpur. It was

alleged that the driver of the jeep drove it rashly and negligently and the jeep went in the kacha and dashed against a tree. Mahesh Chandra and B.L. Talang suffered grievous injuries and died on the spot. Bhanwar Lal also suffered injuries. In the reply it was averred that the driver had to go on the kacha road because a truck was coming in fast speed and in order to avoid the accident when he applied brakes the jeep dashed against the tree. The Tribunal framed five issues in each case. After recording the evidence and hearing the parties, the Tribunal held under issue No. 1 that the accident had occurred because of the rash and negligent driving of the jeep. Under issue No. 2 the aforesaid amount was held to be just and proper compensation.

3. Mr. Mathur, learned Counsel for the appellants contends that the Tribunal has awarded grossly inadequate amount in all the three cases. According to him either higher multiplier should have been adopted or the present income of the deceased should have been doubled while computing the loss of dependency. His further submission is that in the case of Bhanwar Lal Meena, much less amount has been awarded. He has placed reliance on the cases of General Manager, Kerala State Road Trans. Corporation v. Susamma Thomas 1994 ACJ 1 (SC) and Ahmedabad Municipal Corporation v. Niranjana Ambalal Patel 1981 ACJ 53 (Gujarat).

4. On the other hand, Mr. Agrawal submits that the amount awarded is already on the higher side and awards need no interference.

5. I have given in the matter my thoughtful consideration.

6. The hon'ble Apex Court in the case of General Manager, Kerala State Road Transport Corporation v. Susamma Thomas 1994 ACJ 1 (SC), has held that where the deceased was on stable job, the present income of the deceased should be doubled in order to arrive at the figure of just compensation. In this case it has been further observed that the highest multiplier which can be adopted, is of 16. In that case the deceased was 39 years of age and the hon'ble Supreme Court adopted the multiplier of 12 only. Keeping in view the observations of the hon'ble Apex Court, there is no substance in the contention of Mr. Mathur that still higher multiplier should have been adopted. However, it is not disputed that in both the cases the deceased were on stable job, since they were employed in a reputed

private concern, they were bound to get future promotions and get higher pay packets. In view of the aforesaid judgment of the hon'ble Apex Court the present income of the deceased deserved to be doubled in arriving at the just compensation. At the same time it will also have to be borne in mind that at the age of 42, the multiplier could not be of more than 10.

7. If we apply the law laid down in the aforesaid case the monthly income of the deceased Mahesh Chandra, who was the Line Manager, will have to be assessed at Rs. 8,100/-. On deducting 1/3rd amount for the personal expenses of the deceased, the loss of dependency comes to Rs. 5,400/-. The annual loss comes to Rs. 64,800/-. On applying the multiplier of 10 the loss of dependency works out to be Rs. 6,48,000. Tribunal has awarded a sum of Rs. 5,000/- for the loss of consortium and Rs. 8,000/- for deprivation of love and affection. On adding this amount, thus, the just compensation works out to be Rs. 6,61,000/-. In my opinion, the appellants Pingla Devi and others, in Appeal No. 344 of 1991, are entitled to get a compensation of Rs. 6,61,000/-.

8. Coming to Appeal No. 87 of 1992, preferred by Vanmala, it may be stated that on the same principle as applied above the monthly income of the deceased is to be taken at Rs. 5,400/-. After utilising 1/3rd amount, the deceased could spend Rs. 3,600/- per month on his family. Thus, annual pecuniary loss of his family was Rs. 43,200/-. On applying the multiplier of 10 the loss of dependency comes to Rs. 4,32,000/-. On adding Rs. 13,000/- awarded by the Tribunal for the loss of consortium and deprivation of love and affection, just compensation works out at Rs. 4,45,000/-. The appellants are entitled to this amount.

9. Now we come to Appeal No. 345 of 1991, preferred by Bhanwar Lal Meena, who had sustained injuries in the accident. There is evidence on record that Bhanwar Lal had fractured his parietal bone, femur bone and also lost three teeth.

10. The contention of Mr. Mathur in this appeal is that the Tribunal has not considered this aspect of the matter that the appellant will be required to engage auto-rickshaw in future also for coming and going and, therefore, more amount should have been awarded on this count. He further submits that the Tribunal has not awarded any sum for mental agony and physical pain and, therefore, amount

should be awarded on this account.

11. I do not find any force in these contentions. It has not come on record that the appellant has suffered permanent disability. Even it is not on record that the appellant has suffered partial disability. As because of the treatment the appellant is not having any problem in the leg, there cannot be any justification of awarding further some for transportation charges for future. It is true that the Tribunal has not awarded any sum for physical pain and mental agony. However, the learned Tribunal has already been liberal in awarding Rs. 30,000/- for two grievous hurts. There is no justification for further enhancement. In the case of Ahmedabad Municipal Corporation, 1981 ACJ 53 (Gujarat), relied on by the learned Counsel for the appellants, there was evidence to the effect that the injured would not be in a position to avail amenities and enjoy his future life. Loss of earning capacity was also considered in that case which is not the case here. There is, therefore, no justification of enhancing amount of compensation in this case.

12. Consequently, there is no merit in Appeal No. 345 of 1991, which is hereby dismissed.

13. Appeal No. 87 of 1992 is allowed in part and the award is modified in this respect that the appellants are entitled to a compensation of Rs. 4,45,000/- from the respondents with interest as directed by the Tribunal.

14. Appeal No. 344 of 1991 is also allowed in part and the award is modified in this respect that the appellants are entitled to get a sum of Rs. 6,61,000/- from the respondents with interest as directed by the Tribunal.

15. The enhanced amount shall be paid by the insurance company by Account Payee Cheques. Out of the enhanced amount in both the cases half amount and interest thereon will be given to the widow and the remaining amount shall be distributed to the children in equal shares. The appellant-claimants shall deposit the amount in fixed deposit account for a period of six years. In the case of minors, the amount shall be deposited for such period in which they will attain majority, subject to the minimum period of six years.

