

Rukma Devi (Smt.) and ors. Vs. Rampratap and ors.

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Court : Rajasthan

Decided On : Jul-25-2005

Reported in : IV(2005)ACC92; RLW2005(4)Raj2587; 2005(4)WLC231

Judge : Narendra Kumar Jain, J.

Acts : [Motor Vehicles Act, 1988](#) - Sections 173; Evidence Act

Appeal No. : S.B. Civil Misc. Appeal No. 621 of 1996

Appellant : Rukma Devi (Smt.) and ors.

Respondent : Rampratap and ors.

Advocate for Def. : R.K. Mathur, Adv. for Respondent No. 3

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

Disposition : Appeal allowed

Judgement :

Narendra Kumar Jain, J.

1. The claimant-appellants have filed this appeal under Section 173 of Motor Vehicles Act for enhancement of the amount of compensation against the judgment/award dated 25.3.96 passed by the Motor Accident Claims Tribunal, Jaipur District, Jaipur in MACT Case No. 116/93 whereby the tribunal awarded

total compensation of Rs. 63,000/- in favour of claimants in respect of death of late Shri Ramchandra who died in an accident which took place on 8.2.93.

2. The only contention urged on behalf of appellants is that income of deceased was wrongly determined as Rs. 1200/- per month by the Tribunal, whereas it should have been determined as Rs. 3000/- per month on the basis of documentary evidence Ex.15 Income Certificate of the deceased. It is urged that claimants examined AW-1 Mst. Rukma wife of the deceased, who stated on oath that her husband was earning Rs. 100/- per day. He has also referred Ex.15, a certificate issued by Sarpanch, Gram Panchayat Govindgarh, certifying the total annual income of deceased as Rs. 36,000/-. He further submits that in absence of any evidence in rebuttal, there was no reason to disbelieve the documentary evidence like Ex.15, income certificate and as such the amount of compensation ought to have been determined on the basis of annual income of Rs. 36,000/-.

3. So far as age of the deceased and multiplier applied by tribunal are concerned, findings arrived at by the tribunal have not been challenged by learned Counsel for the appellants.

4. Learned Counsel for respondent No. 3 submits that looking to the age and income of the deceased, the amount of compensation awarded by the tribunal is just and reasonable. He submits that Ex.15, should not be believed as the same has not been proved by examining Sarpanch of Gram Panchayat, Govindgarh, who issued this certificate, by the claimants.

5. I have considered the rival submissions and examined the impugned judgment/award and record of the tribunal.

6. AW-1 Mst. Rukma wife of the deceased has stated that her husband Ramchandra who died in an accident, was earning Rs. 100/- per day. Ex.15 has also been placed on record wherein annual income has been mentioned as Rs. 36,000/-. It is true that Sarpanch who issued Ex. 15 was not examined in the matter but it should be borne in mind that the application relates to compensation for a death arising out of Motor Vehicle and in these cases the principles of Evidence Act, are strictly not applicable. The certificate was exhibited as Ex. 15

and no objection was raised by respondents at the time when it was exhibited. In these circumstances, it is proved from the record that annual income of the deceased was Rs. 36,000/- per year. 1/3rd amount out of it is liable to be deducted on account of personal expenses of the deceased. Therefore, compensation in the case is calculated as Rs. $2000 \times 12 \times 5 = 1,20,000/-$. The tribunal awarded Rs. 15,000/- as loss of consortium, remains unchanged. Therefore, the total compensation comes Rs. 1,35,000/-. The order of the tribunal is liable to be modified to that extent.

7. Consequently, the appeal is allowed. The impugned judgment dated 25.3.96 is modified. The total compensation of Rs. 1,35,000/- is awarded in favour of the claimants. The learned Counsel for the appellant does not dispute that Rs. 63,000/- has already been paid to the appellants which were awarded by the tribunal, therefore, the appellants will now be entitled to receive remaining amount of compensation i.e., Rs. 72,000/-. The claimants will be entitled to receive interest on Rs. 72,000/- at the rate of 6% per annum from the date of claim application i.e. 22.2.93 till the deposit of amount in the tribunal. Learned Counsel for the respondent No. 3 wants time to deposit the amount. Six weeks time is allowed for the same. The tribunal is directed to deposit the entire amount in Monthly Income Scheme in the name of claimant Smt. Rukma for a period of six years. She will be entitled to receive monthly interest and full amount on its maturity. No order as to cost.