

Santosh and ors. Vs. Ranjit Singh and ors.

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Court : Rajasthan

Decided On : Jan-15-1998

Reported in : II(1998)ACC232; 1998ACJ959; 1998WLC(Raj)UC467; 1998(1)WLN26

Judge : J.C. Verma, J.

Appeal No. : S.B. Civil Misc. Appeal No. 355 of 1993

Appellant : Santosh and ors.

Respondent : Ranjit Singh and ors.

Advocate for Pet/Ap. : Resham Bhargava, Adv.

Disposition : Appeal allowed

Judgement :

J.C. Verma, J.

1. Because of the unfortunate accident on 21.12.1985 at the place called Rupangarh when truck No. RNB 948 had hit jeep RLA 5524, driver of the jeep Govind Singh died who was aged about 25 years at the time of death. At that time he was getting a monthly income of Rs. 750/- per month. His wife Santosh aged about 23 years, his son aged about 10 months and his mother Durga preferred the claim before the M.A.C.T. The Tribunal had come to the finding that the deceased

Govind Singh had died because of rash and negligent driving of truck No. RNB 948 being driven by Ranjit Singh driver, respondent No. 1. The dependency income was assessed at Rs. 500/- per month and applying the multiplier of 35, a compensation of Rs. 2,10,000/- was ultimately assessed and in addition consortium of Rs. 5,000/- was granted to wife and another Rs. 5,000/- to the minor son. The mother was not paid any amount at all. The total compensation assessed by the Tribunal came to be Rs. 2,20,000/- and after deducting Rs. 15,000/- as amount of no fault liability order was made to be paid Rs. 2,05,000/- with interest at the rate of 12 per cent per annum.

2. This appeal has been filed by the claimants as aforesaid along with father and three brothers. The claim was allowed only in favour of wife and minor son. Out of compensation assessed, it was ordered that Rs. 5,000/- be paid to the mother. The three appellants have filed the present appeal for enhancement.

3. The counsel for the appellant submits that as per the law laid down by the Hon'ble Supreme Court in General Manager, Kerala State Road Trans. Corporation. v. Susamma Thomas 1994 ACJ 1 (SC), the multiplier is to be fixed at the principles laid down in the said judgment and if the multiplier is given as per the law laid down in the said judgment, the total compensation would be enhanced to Rs. 2,16,000/- instead of Rs. 2,10,000/-. The counsel for the appellant also submits that the amount paid for consortium and love and affection, i.e., total amount of Rs. 10,000/- as detailed above is too meagre and no reasons have been given for awarding such a small amount. It is submitted by the learned Counsel for the appellant that in any case if the compensation is not enhanced to Rs. 2,16,000/-, the consortium and the compensation for loss of love and affection to the mother, the minor child and also to the wife be enhanced. It is stated that as per the custom and conventions prevailing in Rajasthan, it is hard for a widow to live peacefully and further the widow suffers throughout her life and the widow being of an age of 23 years at the time of accident is to suffer throughout her life and even though no amount can compensate her but still awarding of Rs. 5,000/- as consortium for love and affection was too little and, therefore, prayer has been made to enhance the same. I agree with the submission made by the learned Counsel for the appellant. No reasons have been given by the Tribunal for

awarding such a meagre and small amount as consortium and also towards love and affection to son. The son who was only 10 months infant at the time of death of his father would always lack the love and affection of the father.

4. In my opinion, the minimum consortium which should be given to the widow who is about 23 years of age should be not less than Rs. 20,000/- and similarly the son is to be also compensated by way of enhancement towards love and affection. The amount of Rs. 5,000/- awarded to the son for loss of his father at the tender age is increased to Rs. 15,000/-.

5. The mother of the deceased has not been allowed any compensation towards love and affection of his son. It is known fact that to suffer a death of a young son of 25 years is shocking to the mother and the mental agony she has to suffer is unimaginable. The Tribunal should have awarded at least Rs. 15,000/- to mother. Even though there are no hard and fast rules for fixing such an amount and whatever is awarded by the Courts cannot be called as real compensation, but only a consolation for the loss of their lost husband, father, brother or son.

6. For the reasons mentioned above, compensation as assessed at Rs. 2,20,000 is maintained. However, the consortium of Rs. 5,000/- to the widow is increased to Rs. 20,000/- and the compensation for love and affection to the son who was 10 months old at that time is increased to Rs. 15,000/- from Rs. 5,000/-. The mother shall also be entitled for compensation for losing her son to an amount of Rs. 15,000. The total compensation including all these items is enhanced to Rs. 2,70,000/- which shall also carry interest at the rate of 12 per cent per annum from the date of application till payment. Any amount paid shall be adjusted.

7. The appeal is allowed as mentioned above.