

Pyari and ors. Vs. Balsingh and ors.

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Court : Rajasthan

Decided On : Dec-02-2004

Reported in : I(2005)ACC824; 2006ACJ567

Judge : Dalip Singh, J.

Acts : [Motor Vehicles Act, 1988](#)

Appeal No. : S.B. Civil Misc. Appeal No. 545 of 1993

Appellant : Pyari and ors.

Respondent : Balsingh and ors.

Advocate for Def. : Vinod Tyagi, Adv.

Advocate for Pet/Ap. : G.K. Bhartiya, Adv.

Disposition : Appeal allowed

Judgement :

Dalip Singh, J.

1. This appeal has been filed against the award dated 29.8.1992 passed by the Motor Accidents Claims Tribunal, Bayana (hereinafter referred to as 'the Tribunal') in Claim Petition No. 179 of 1988 filed by the appellants for compensation on account of death of one Puni Ram, aged 40 years who was the husband of

appellant No. 1 and the father of the appellant Nos. 3 to 6.

2. Learned counsel for the appellants submitted that learned Tribunal granted a very meagre amount of Rs. 59,000 on account of death of the sole bread earner of the family who had left behind his mother, widow and four children.

3. The submission of learned counsel for the appellants is that the deceased was a mason and earning Rs. 60 per day and the learned Tribunal has erred in holding that the deceased was earning Rs. 300 per month only.

4. Learned counsel for the appellants has, thus, submitted that the Second Schedule to the [Motor Vehicles Act, 1988](#), which their Lordships of the Hon'ble Supreme Court have held are a sufficient guidelines to determine such like cases as has been held in the case of Arati Bezbaruah v. Dy. Director General, Geological Survey of India, : [2003]1SCR1229 , where in para 11 their Lordships have held that the provisions contained in Second Schedule to the [Motor Vehicles Act, 1988](#) have proved to be a guideline so far as the cases covered under the said Schedule are concerned and accordingly this case may also be dealt with under the provisions of the Second Schedule to the [Motor Vehicles Act, 1988](#) as a guidelines.

5. As per the Second Schedule to the [Motor Vehicles Act, 1988](#), even in the case of fatal accident involving non-earning persons, a notional income of Rs. 15,000 (Rs. fifteen thousand only) per annum can be taken into account as has been laid in item No. 6 of the aforesaid Schedule. As per the Schedule, the persons in the age group of 40 to 45 years are concerned, a multiplier of 15 has been prescribed.

6. Consequently, this appeal is allowed to the extent that the appellants would be entitled to enhanced compensation of Rs. 2,25,000 (Rs. two lakh twenty-five thousand only) of (Rs. 15,000 x 15) and the amount of Rs. 59,000 (Rs. fifty-nine thousand only) as awarded by the Tribunal and has already been paid to appellants shall be deducted from the enhanced amount of Rs. 2,25,000. Appellants would be entitled to get the balance amount of Rs. 1,66,000 (Rs. one lakh sixty-six thousand only) being the balance amount of compensation. The respondents would pay the same by means of DD or crossed cheque or deposit

the same with the Tribunal within a period of 3 months from today. In case, the same is deposited or paid within the stipulated period of 3 months, the appellants would be entitled to get interest on the aforesaid balance amount at the rate of 6 per cent per annum w.e.f. the date of filing of the appeal, i.e., 30.11.1992. However, in case, respondents fail to deposit or pay the same within the stipulated period of 3 months as indicated above, the appellant would be entitled to recover the said amount along with interest at the rate of 9 per cent per annum w.e.f. the date of filing of the claim petition, i.e., 22.6.1988.

There shall be no order as to costs.

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