

Phool Chand and ors. Vs. Mohanlal and ors.

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Court : Rajasthan

Decided On : Mar-21-2006

Reported in : III(2006)ACC578

Judge : Ajay Rastogi, J.

Appellant : Phool Chand and ors.

Respondent : Mohanlal and ors.

Judgement :

Ajay Rastogi, J.

1. It is claimant's appeal for enhancement of compensation awarded by Motor Accident Claims Tribunal, Jaipur District ('Tribunal') in h MACT Case No. 342/93 vide award date, 27.11.1998.
2. Claimants are parents of deceased daughter Kumari Munni aged 5 years, who died in an accident on 15.5.1993. The Tribunal after taking note of facts placed on record, awarded lumpsum compensation of Rs. 73,000 with interest @ 12% p.a., from the date of claim petition till actual payment.
3. Counsel for claimants urged that even where the deceased is considered to be non-earning member in the family, his notional income has been considered at Rs. 15,000 per annum and multiplier of 15 is adopted as per Schedule to the Motor

Vehicles Act, 1988 ('the Act'), which ought to have been adopted by the Tribunal, but without taking into consideration material on record, awarded a lumpsum compensation of Rs. 70,000 towards loss of financial dependency and Rs. 3,000 towards medical expenses, to the claimants, which is not adequate and justified. In support of his contention, Counsel placed reliance upon the decision of Apex Court in Manju Devi v. Musafir Paswan IV (2005) ACC 15 (SC) : 2005 (1) TAC 609 (SC) and Lata Wadhwa v. State of Bihar : (2001) IILLJ 1559 SC , and also of this Court in Shree Lal v. R. Sutyakanta 2005 (3) WLC (Raj.) 707, and Hanuman Sant v. Madan 1998 ACJ 918, and unreported judgment of this Court (DB) in Gordhan v. Hariram, (Special Appeal (Civil) No. 3/02 decided on 28.4.2003.

4. On the other hand, Counsel for respondents contended that looking to the age of deceased what has been awarded by the Tribunal is adequate and no interference in the impugned Award is required to be made.

5. I have considered rival contentions and perused the findings recorded by the Tribunal. As per 2nd Schedule to the Act, up to the age of 15 years, multiplier of 15 is to be applied and when the Legislature in 2nd Schedule has not made any difference in application of multiplier for the death of non-earning member. In the present case, deceased (daughter of claimants), who was also a non-earning member, there cannot be made any difference with regard to quantum of compensation as awarded in the judgment referred to (supra).

6. It is true that loss which parents have suffered on account of death of their daughter in no manner can be compensated but under statute, they can be monetarily compensated to some extent. No justification has been put forward on record by Tribunal in awarding lumpsum compensation of Rs. 70,000. Instant case relates to an accident which took place on 15.5.1993 prior to amendment made in 1994 in Schedule to the Act, and age of the deceased is only 5 years at the time of accident, therefore, in such like cases, this Court has considered it just to award lumpsum compensation of Rs. 1.50 lacs; as such taking note of decision of this Court (DB) in Gordhan v. Hariram (supra), I consider it just to award lumpsum compensation of Rs. 1.50 lacs.

7. In view of settled legal position (supra), this appeal is allowed and the claimants are entitled for enhanced compensation for a sum of Rs. 77,000 (Rs. 1,50,000 minus Rs. 73,000 awarded vide impugned Award), which shall also carry interest @ 6% p.a., from the date of filing of claim application till its actual.

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