

Ashok Kumar and ors. Vs. Chandra Mohan Chamoli and anr.

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Court : Rajasthan

Decided On : Oct-28-2005

Reported in : II(2006)ACC273

Judge : Ajay Rastogi, J.

Appellant : Ashok Kumar and ors.

Respondent : Chandra Mohan Chamoli and anr.

Advocate for Def. : Mr. Man Singh

Judgement :

Ajay Rastogi, J.

1. Both these appeals are directed against common award dated 15.2.2002 passed by Motor Accident Claims Tribunal, Hindaun City ('Tribunal') in MACT Case Nos. 120/98 and 113/98, having arisen out of same accident in which their parents died, as such are being disposed of by this common order. Instant appeals have been filed by claimants (three sons) seeking enhancement of compensation awarded by Tribunal.

2. Under the impugned award, the Tribunal awarded a sum of Rs. 1.5 lacs in Case No. 113/98 and Rs. one lac in Case No. 120/1998 as compensation respectively for the death of Rameshwar (father) and Geeta (mother), who are parents of three

major sons (claimants). On 7.5.1998 while they were travelling in offending Bus No. UP/07/G/0513 for pilgrimage to Badrinath Dham and on return to Rishikesh, near village Lagasu PS Karanprayag, due to rash and negligent driving by its driver, the Bus fell into Alknanda river, thereby both of them died in the accident.

3. Two claim petitions, supra, were separately filed by three major sons of deceased Rameshwar and Geeta aged 52 and 50 years. As alleged in claim petition, she was having income from profession of tailoring but as there was no documentary evidence on record except their oral statement, the Tribunal awarded lumpsum compensation of Rs. one lac. However, as regards Rameshwar, he was working as Class IV employee in Municipal Council having monthly income of Rs. 2,755 as is evident from salary certificate (Ex. 12) and for his death of the Tribunal awarded lumpsum compensation of Rs. 1.5 lacs.

4. It is worthwhile to note that father Rameshwar (deceased) being permanent employee, after his death, while being in service, youngest son Rajesh (appellant No. 3) got employment on compassionate grounds as per relevant service Rules.

5. Mr. Ankur Mathur, Counsel for claimants urged that compensation awarded by the Tribunal towards love and affection and mental and physical pain to claimants, is on lower side which requires interference by this Court. The Counsel further urged that even where the deceased is considered to be non-earning member in the family, notional income has to be taken at Rs. 15,000 per annum, as per Schedule to the Motor Vehicles Act, 1988 ('the Act'), but in case of their mother Geeta in view of her age of 50 years, the Tribunal not only failed to consider her age for application of proper multiplier but also erred in not assessing her income while granting compensation; and that apart, in case of their father Rameshwar, despite salary certificate (Ex. 12) which depicted his monthly salary of Rs. 2,746 and he has still five years more to serve, which has not been considered by Tribunal, therefore, what has been awarded by Tribunal towards loss of income and non-pecuniary losses like love and affection is not just and reasonable, which requires interference by this Court.

6. On the other hand, Mr. Man Singh, Counsel for respondents, contended that the deceased mother was non-earning member in the family and considering this fact,

no error has been committed by awarding lumpsum compensation. He further submits that all the three claimants are major sons and are in their respective employment, inasmuch as third son having/been employed on compassionate ground on the death of father Rameshwar (deceased), there was no financial loss caused to any of claimants on account of death of both the deceased and towards loss of love and affection, what has been quantified, is just and reasonable, requiring no interference.

7. I have considered rival contentions and with their assistance examined the material on record. It is true that loss which claimants have suffered on account of death of their parents, in no manner can be quantified at all and this loss can also not be replaced. But, anyhow, this fact remains undisputed that no financial loss has been caused to either of claimants on account of death of their parents for the reasons that all the three sons (claimants) are major and are in their respective employments. So what they are entitled for compensation is only with regard to non-pecuniary loss, viz., for love and affection. In present fact situation, what has been awarded by the Tribunal in both the claim petitions, as lumpsum compensation for love and affection, in my considered opinion, is just and reasonable, which requires no interference by this Court for enhancement.

8. Consequently, both the appeals fails and are hereby dismissed. No order as to costs.