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Court : Rajasthan

Decided On : Mar-30-2005

Reported in : II(2005)ACC828

Judge : J.R. Goyal, J.

Appellant : Pepa Devi and ors.

Respondent : Oriental Insurance Company Ltd. and ors.

Judgement :

J.R. Goyal, J.

1. Instant appeal has been preferred by the widow, father, mother, grand-father, grand-mother and two minor sons of the deceased Maluram for the enhancement of compensation awarded by the Motor Accident Claims Tribunal, Jaipur City vide judgment dated 9.8.1994 in Claim Petition No. 879/ 1991.

2. Brief facts of the case are that on 7.6.1991 at about 8.30 a.m. deceased Maluram was going by his motorcycle No. RSG 5650 with Ramu sitting behind him. When they reached at Balabala, suddenly a truck No. RNG 3377 with high speed came from the opposite side in an uncontrollable position. Maluram having seen drove his motorcycle towards kaccha and stopped his motorcycle but the driver of the truck could not control his truck and coming on the wrong side hit the motorcycle, as a result of which both the persons sitting on the motorcycle died on

the spot.

3. The Motor Accident Claims Tribunal awarded a sum of Rs. 1,20,000/- as compensation with interest @ 12% per annum from the date of filing the claim petition i.e., 17.6.1991 with the stipulation that if the awarded amount is not paid within a period of two months then interest would be payable @ 15% per annum.

4. Aggrieved by the award on the ground of inadequacy this appeal has been filed by the appellants.

5. Learned Counsel for the appellants contended that the learned Tribunal while passing the award did not consider the evidence properly regarding the age and income of the deceased Maluram. It was also submitted that at the time of death of the deceased Maluram he was 25 years of age and under these circumstances, the multiplier of 17 should have been adopted but the learned Tribunal did not adopt the multiplier and granted compensation of Rs. 1,00,000/- in lumpsum and a sum of Rs. 15,000/- for the loss of consortium, love and affection and a sum of Rs. 5,000/- for funeral expenses which is on very lower side.

6. Learned Counsel for the respondent-Insurance Company submitted that the award passed by the learned Tribunal is just and reasonable which does not require any interference.

7. I have considered the rival contentions of learned Counsel for the parties. It is settled proposition of law that while assessing the compensation, method of multiplier should be adopted. In Manju Devi and Anr. v. Musafir Paswan and Anr. reported in 2005 ACJ 99, the Apex Court observed that 'award of compensation should be made by multiplier method as it ensures payment of just compensation and it brings uniformity and certainty to the awards'. In the instant case it is not disputed that at the time of the death of deceased Maluram, he was 25 years of age. This fact has also come in the evidence that the deceased Maluram was engaged in the work of selling the milk. Learned Tribunal reached at the conclusion that it is not possible to ascertain the definite income of the deceased Maluram from the contradictory evidence led by the claimants. In my considered opinion in the matters where no satisfactory evidence has been led to prove the

fact of annual income of the deceased, minimum Rs. 15,000/- per annum should have been considered as notional income of the deceased taking as a guideline of the provisions of second schedule of Section 163A of the Motor Vehicles Act, 1988.

8. In the instant case under the facts and circumstances, it would be appropriate to determine the notional income of the deceased Maluram as Rs. 15,000/- per annum. After deducting the usual one-third amount as personal expenses, loss of dependency comes to Rs. 10,000/- per annum. Considering the provisions of second schedule to the Act as the guideline, multiplier of 17 would be appropriate to meet the ends of justice. Thus, the total loss of dependency comes to Rs. 10,000 x 17 = Rs. 1,70,000/-. Learned Tribunal has awarded a sum of Rs. 15,000/- on the head of consortium and love and affection and Rs. 5,000/- for funeral expenses which seems to be just and reasonable. Thus, the appellants are entitled to get Rs. 1,90,000/-.

9. Consequently, the appeal is partly allowed and the award of the learned Tribunal is modified and compensation amount is enhanced to Rs. 1,90,000/- from Rs. 1,20,000/- with interest @ 6% per annum on the enhanced amount from the date of filing the claim petition till payment. The enhanced amount of compensation along with interest shall be payable after adjusting the amount if already paid as per the award of the Tribunal, within a period of three months from today.

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