

Suja Devi and ors. Vs. Hari Singh and ors.

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Court : Rajasthan

Decided On : Dec-06-2001

Reported in : 2003ACJ140

Judge : J.C. Verma, J.

Appeal No. : S.B. Civil Misc. Appeal No. 710 of 1993

Appellant : Suja Devi and ors.

Respondent : Hari Singh and ors.

Advocate for Def. : P.S. Shukla, Adv.

Advocate for Pet/Ap. : K.N. Tewari, Adv.

Disposition : Appeal allowed

Judgement :

J.C. Verma, J.

1. This is an appeal for enhancement of amount of compensation awarded by the Motor Accidents Claims Tribunal, Jaipur, dated 14.9.1993 in Case No. 1352 of 1992 wherein an amount of Rs. 84,000 was awarded along with interest at the rate of 12 per cent per annum to the claimants. The claimants are the widow, two daughters, two sons and the parents of the deceased Jagdish Chandra Jat who

died in an accident on 13.4.1990 when he was hit by a truck bearing registration No. RSB 5178. The Tribunal had found that the accident had been caused because of negligent driving of the said truck driver. However, while assessing the amount of compensation, the Tribunal while determining the age to be 35 years of the deceased had assessed the income as Rs. 500 per month and the dependency was fixed as Rs. 350 per month. Apart from the above, the Tribunal had also granted Rs. 15,000 towards loss of consortium to the widow and Rs. 10,000 to other claimants for loss of love and affection. The Tribunal had also deducted another amount of 30 per cent, the total amount of Rs. 40,000, for being as lump sum amount.

2. The learned Counsel for the appellants challenges the award on the point of assessment of the income and submits that no amount has to be deducted on the ground that lump sum was being paid.

3. It has come in evidence that the deceased was earning Rs. 1,500 p.m. and was working in the factory owned by his brother. The brother had appeared as a witness. There is no evidence contradicting the statement of the evidence produced by the claimants.

4. In my opinion, the award in regard to the monthly salary of the deceased is based on conjectures and even otherwise Rs. 1,500 per month cannot be said to be an income on excessive side. The deceased was maintaining his wife, four children and may be the old parents as well. In my opinion, for the family of more than 5 or 6 persons, it cannot be said that dependency of Rs. 1,000 if it is so, assessed is on excessive side. I reduce the multiplier but enhance the dependency. Compensation is assessed as Rs. 1,000 as dependency with the multiplier of 14, i.e., Rs. 1,68,000 plus Rs. 25,000 as granted by the Tribunal on other counts and the total compensation along with interest as awarded by the Tribunal.

5. The learned Tribunal was unjustified in ordering that 30 per cent amount of compensation is deducted from the total amount of compensation on the ground that lump sum payment was being made. No such deduction is permissible. On the basis of the case of Hardeo Kaur v. Rajasthan State Road Trans. Corporation

1992 ACJ 300 (SC), it has to be held that the claimants shall be entitled to full amount of Rs. 1,93,000 with interest as awarded by the Tribunal.

6. In view of the above said reasons and discussions, the appeal is allowed and stands disposed of.

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