Dharmendra Sharma and anr. Vs. Kishan Singh and ors.

Dharmendra Sharma and anr. Vs. Kishan Singh and ors.

SooperKanoon Citation : sooperkanoon.com/772069

Court : Rajasthan

Decided On : May-16-2001

Reported in : 2003ACJ1547; 2001(3)WLC188; 2001(3)WLN175

Judge : B.J. Shethna and; Prakash Tatia, JJ.

Appeal No. : Civil Special Appeal No. 91 of 1998

Appellant : Dharmendra Sharma and anr.

Respondent : Kishan Singh and ors.

Advocate for Def. : Vivek Gupta and; G.K. Vyas, Advs.

Advocate for Pet/Ap. : L.R. Choudhary, Adv.

Judgement :

B.J. Shethna, J.

1. On 21.11.1993 Dharmendra Sharma, Jitendra Sharma, Ruchi Sharma, Vinay Rai, Prinaka Rai, Himanshu and Mithulal were proceeding in Maruti van No. RJ 19-T 0680 from Ajmer to Jodhpur. When they reached near Sendra, bus No. RJP 2214 coming from the opposite direction dashed with the Maruti van in a rash and negligent manner. Vinay Rai, Jitendra Sharma and Ruchi Sharma died at the spot, Dharmendra Sharma and Mithulal were injured. F.I.R. was lodged against the driver of the bus for offences punishable under Sections 279, 337 and 304-A,

Indian Penal Code. Four Claim Petition Nos. 86, 78, 87 and 60 of 1994 were filed before the Tribunal by different claimants.

2. Claim Petition No. 86 of 1994 was filed by claimants Dharmendra Sharma and his wife Munni Rani on account of death of their son Jitendra Sharma who was only 21 years old. They claimed in all Rs. 20,51,000 on the ground that their son Jitendra Sharma was only 21 years at the time of the accident. In 1993 he passed B.Com. with a merit certificate from Ministry of Human Resources and Development (Department of Education), Govt. of India and also appeared in Entrance Examination of Chartered Accountants of India. He excelled in various extra curricular activities also. Immediately after passing his B.Com. examination he was working with Suncity Tours and Travels and getting salary of Rs. 2,500 per month. He applied for overseas job in Saudi Arabia and already got the appointment in Khair Perfumery at Jeddah in Saudi Arabia with the monthly salary of 1,600 Saudi Riyals, which is equivalent to Rs. 16,000 in Indian currency. The appointment letter, Exh. 28-A, was also produced on record. Unfortunately, before he joined he died in the accident. The claimants being his parents have, therefore, filed Claim Petition No. 86 of 1994 and claimed a total sum of Rs. 20,51,000.

3. However, learned Tribunal after considering the oral as well as documentary evidence on record including the appointment letter of deceased Jitendra Sharma from Saudi Arabia company computed the dependency amount at Rs. 7,20,800 but in view of the judgment of Hon'ble Supreme Court in the case of General Manager, Kerala State Road Transport Corporation v. Susamma Thomas 1994 ACJ 1 (SC), has awarded only Rs. 3,20,000 as the dependency value. In addition to it the Claims Tribunal allowed Rs. 1,000 for transportation purposes for removing the body and taxi charges and also paid Rs. 50,000 on account of loss of love and affection and Rs. 25,000 as funeral expenses. Thus in all, the Tribunal awarded Rs. 3,96,000 to the claimants against claim of Rs. 20,51,000.

4. Respondent Rajasthan State Road Transport Corporation challenged that award before this Court by way of filing S.B. Civil Misc. Appeal No. 312 of 1996. The said appeal along with three other appeals were disposed of by common judgment and order dated 5.5.1998 whereby the learned single Judge

substantially reduced the amount from Rs. 3,96,000, which was awarded by the Tribunal to Rs. 2,24,000. The original claimants-present appellants aggrieved by that order have filed this special appeal.

5. Mr. Choudhary, learned Counsel for the appellants vehemently submitted that in the instant case the learned single Judge while relying upon the judgment of the Hon'ble Apex Court in Susamma Thomas' case, 1994 ACJ 1 (SC), slashed down the dependency value and fixed the estimated income of the deceased at Rs. 3,000 per month only. Out of annual income, i.e., Rs. 36,000, Rs. 3,000 was computed towards personal expenses of the deceased. Therefore, Rs. 2,000 per month was fixed, i.e., Rs. 24,000 per year and considering the multiplier of 9 only, the learned single Judge had calculated the compensation at Rs. 2,16,000. However, learned Counsel Mr. Gupta for the respondent supported the judgment of the learned single Judge and submitted that the finding recorded by him reducing the compensation amount to Rs. 2,16,000 by applying multiplier of 9 is correct.

6. It is true that in the case of Susamma Thomas, 1994 ACJ 1 (SC), the Hon'ble Apex Court observed that the claim made for loss of future earnings of Rs. 50,000 on the prospects of future employment in USA was rightly negatived by the Tribunal (emphasis supplied). However, there is a difference between the prospects and actual events. In the instant case, deceased Jiten-dra Sharma actually got the appointment order in Saudi Arabia and his monthly income would be Rs. 16,000 as per Indian currency. In that view of the matter, if the learned Tribunal calculated the dependency value of Rs. 7,20,800, then no fault can be found with the order. However, the learned Tribunal was conscious about the judgment of the Hon'ble Supreme Court in Susamma Thomas' case itself, therefore, instead of awarding Rs. 7,20,800 it has awarded only Rs. 3,20,000 by applying multiplier of 12. Thus it cannot be said that the learned Tribunal was anyway wrong in awarding the same amount by applying multiplier of 12. The learned single Judge has applied multiplier of 9 whereas in the instant case father was of the age of 50 and mother was of 48. Considering the recent judgments of the Hon'ble Supreme Court and that the age of the human being is increased substantially with the advance technology, therefore, it cannot be said that in the

instant case the Tribunal had committed error in applying multiplier of 12. Without considering all these aspects, the learned single Judge has reduced the multiplier from 12 to 9.

7. The learned single Judge has maintained the award of Rs. 1,000 for transportation charges awarded by the Tribunal but without any reason reduced the funeral expenses from Rs. 25,000 to Rs. 2,000 and awarded Rs. 5,000 only for the loss of love and affection instead of Rs. 50,000 awarded by the Tribunal. Thus instead of total amount of Rs. 3,96,000 awarded by the Tribunal, the learned single Judge awarded only in all Rs. 2,24,000 with interest at the rate of 12 per cent. However, the learned single Judge has rightly reduced interest from 15 per cent awarded by the Tribunal to 12 per cent. However, with regard to the substantial reduction in the compensation amount awarded by the Tribunal we are not in agreement with the view taken by him.

8. In view of the above discussion, the judgment and order passed by the learned single Judge partly allowing the Misc. Appeal No. 312 of 1996 filed by the respondent in Claim Petition No. 86 of 1994 is hereby quashed and set aside and the judgment and award passed by the learned Tribunal is restored with the clarification that the claimants would be entitled for Rs. 3,96,000 as awarded by the Tribunal but with interest at the rate of 12 per cent from the date of institution of the claim petition till its realization.