

Laxmi Devi (Mst.) and ors. Vs. Ramphool and ors.

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Court : Rajasthan

Decided On : Mar-01-2007

Reported in : 2007(1)WLN157

Judge : R.S. Chauhan, J.

Appeal No. : S.B. Civil Misc. Appeal No. 526/1997

Appellant : Laxmi Devi (Mst.) and ors.

Respondent : Ramphool and ors.

Judgement :

R.S. Chauhan, J.

1. For enhancement, the appellants have challenged the award dt. 17.01.1996 passed by the Motor Accident Claims Tribunal, Jaipur District, Jaipur whereby the learned Tribunal has awarded a compensation of merely Rs. 1,59,000/- for the death of Hansraj, the husband of the appellant No. 1, the father of the appellant No. 2, the son of the appellant No. 3 and the brother of the appellant Nos. 4 and 5.

2. The brief facts of the case are that on 01.06.1993 while Hansraj was working as a labourer on truck, bearing Registration No. RNE-6632, he was travelling in the said truck from Banas to Jaipur. He had to reach Jaipur so as to unload 'Bajari' (sand from the river). However, on a bridge near Chaksu, the said truck dashed

with another truck, bearing Registration No. DIL5415. Consequently, because of the impact, Hansraj fell from the truck and was run over by the truck. Resultantly, he suffered grave injuries and was rushed to the hospital. According to the Postmortem Report (Ex.-4), he was hospitalized from 01.06.1993 till his death on 20.07.1993. Since the appellants were financially and emotionally dependent on Hansraj, after his demise, they filed a claim petition before the learned Tribunal.

3. The respondent No. 3, United India Insurance Company Limited, filed its reply and raised certain objections. In order to support their case, the appellants examined four witnesses and submitted seven documents. However, the respondent No. 3 neither examined any witness, nor submitted any document to support its objections. After going through the oral and documentary evidence, the learned Tribunal vide award dt. 17.01.1996 granted the compensation as aforementioned. Hence, this appeal for enhancement.

4. Mr. Rakesh Bhargava, the learned Counsel for the appellants, has raised three contentions before this Court: firstly, that at the time of his death, the deceased was 23 years old. Therefore, according to the Schedule-II attached to the Motor Vehicles Act, 1988 (henceforth to be referred to as 'the Act', for short), which had come into force by the time award was passed, a multiplier of 17 should have been applied. However, without giving any cogent reason, the learned Tribunal has applied a multiplier of only 12. Hence, a wrong multiplier has been applied by the learned Tribunal. Secondly, despite the fact that the deceased was hospitalized for a period of one month and twenty days, no compensation has been paid for the medical expenses incurred by the family. Obviously, the medical treatment could not have been for free, thus, the learned Tribunal ought to have awarded some compensation for the medical expenses incurred by the family. Thirdly, despite the fact that the minor had lost his father, the widowed mother had lost her son and brothers had lost their elder brother, no compensation has been paid by the learned Tribunal for the loss of love and affection suffered by the family.

5. On the other hand, Mr. A.K. Pareek, the learned Counsel for the respondent No. 3, has supported the impugned order.

6. We have heard the learned counsels for the parties and have perused the impugned award.

7. Admittedly, the accident had taken place on 01.06.1993 when the Schedule-II of the Act had not come into the force. However, by the time the award was pronounced, the Schedule-II of the Act was certainly available to the learned Tribunal. In a catena of cases, the Hon'ble Supreme Court has held that the learned Tribunal should use the Schedule-II of the Act as a guideline for assessing the amount of the compensation to be paid to the claimants. According to the Schedule-II of the Act, in case the age of the victim is between 20-25 years, then a multiplier of 17 should be applied. In case the learned Tribunal wanted to apply a lesser multiplier, then it should have stated its reason for doing so. For, in case the learned Tribunal wishes to deviated from the Schedule-II of the Act, it must give cogent reasons for such a deviation. However, in the present case, the learned Tribunal has not stated any reason for such deviation. Therefore, this Court has no option, but to apply a multiplier of 17 in place of multiplier of 12.

8. A bare perusal of the Ex.-4, Post-mortem Report, clearly reveals that the deceased, Hansraj, was hospitalized from 01.06.1993 till 20.07.1993. Naturally, during this period of one month and twenty days, the family would have incurred medical expenses for medicines, for other ancillaries treatment. Even if, the medical bills were not produced, an intelligent guess could have been made by the learned Tribunal for assessing the compensation in the category of 'medical expenses and special diet'. However, the learned Tribunal has failed to do so. Therefore, this Court grants a compensation of Rs. 20,000/- in the category of 'medical expenses and special diet'.

9. The loss of a young son, the loss of a father and the loss of an elder brother is a painful experience for any human being. The pain turns into agony when the family is totally dependent financially upon the deceased person. Such a pain and agony can never be alleviated completely. However, a monetary compensation can only cushion the loss suffered by the family. Although the learned Tribunal should be sensitive to the emotional loss suffered by the family, in the present case, the learned Tribunal has not granted any compensation for the loss of love and

affection suffered by the respondents No. 2 to 5. Therefore, this Court has no option but to grant a compensation of Rs. 20,000/- for the said loss.

10. In the result, this appeal is allowed and the award dt. 17.01.1996 is modified to the extent as under:

Award Amount Rs. 1,59,000/-Amount for Medical Exp. & Special Diet Rs. 20,000/-
Amount for Love & Affection Rs. 20,000/-Total Rs. 1,99,000/-

11. The rest of the award is confirmed as granted by the learned Tribunal.

12. The respondents are directed to pay the compensation amount along with interest @ 12% per annum from the date of filing of the claim petition till the date of award i.e. 17.01.1996 and to pay a further interest @ 9% per annum from the date of filing of the present appeal i.e. 11.06.1996 till the date of realization. The learned Tribunal is directed to recover the said amount from the respondent No. 3 and to deliver the same to the appellants within a period of two months from the date of receipt of the certified copy of this order.

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