Kailashi and ors. Vs. Bagh Singh and ors.

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SooperKanoon Citation : sooperkanoon.com/772140

Court : Rajasthan

Decided On : Feb-25-2002

Reported in : 2004ACJ599; 2003WLC(Raj)UC207

Judge : Gyan Sudha Mishra, J.

Acts : Motor Vehicles Act, 1988 - Sections 168; Motor Vehicles (Amendment) Act, 1994

Appeal No. : S.B. Civil Misc. Appeal No. 403 of 1995

Appellant : Kailashi and ors.

Respondent : Bagh Singh and ors.

Advocate for Def. : Giriraj Bardar, Adv.

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

Judgement :

Gyan Sudha Mishra, J.

1. An award of Rs. 1,59,500 (rupees one lakh fifty-nine thousand five hundred) has been passed in favour of the claimants-appellants who are the dependants of the deceased Gangaram who had died as a result of the accident caused by the vehicle bearing No. PB 11-B 6491 insured with the respondent No. 3 New India

Assurance Co. Ltd. The appellants are aggrieved of this amount and hence filed this appeal for enhancement of the amount of compensation. It is an admitted position in this matter that although the claimants have claimed the income of the deceased as Rs. 2,100 (rupees two thousand one hundred), no cogent evidence was led by them in this regard and consequently his income was computed as Rs. 1,500 (rupees fifteen hundred) per month, that is, Rs. 18,000 (rupees eighteen thousand) per annum. On the established norms and principles, if 1/3rd of this amount is deducted, net income of the deceased would be Rs. 1,000 (rupees one thousand) per month.

2. Learned counsel for the appellants, however, submitted that even if this figure is treated as correct, a multiplier less than 17 should not have been applied to the income of the deceased but a lump sum amount of Rs. 1,50,000 (rupees one lakh fifty thousand) only has been determined by way of compensation amount, although the deceased was running a sweet shop and was making sweets as he was a 'halwai'. His age too was only 24 years and yet no amount towards future income has been added. It is, therefore, contended that the amount of Rs. 1,50,000 (rupees one lakh fifty thousand) only towards compensation cannot be treated as a just amount as the deceased has left behind his wife and four minor children as also his old parents who do not have any independent source of income.

3. The submissions advanced on behalf of claimants-appellants cannot be brushed aside lightly as it cannot be inferred that the deceased who was running a sweet shop would never have earned more than Rs. 1,500 per month during his whole lifetime so as to deny him the benefit of future income. It also cannot be denied that in a situation of this kind where the deceased was only 24 years old and had left behind seven members as his dependants, a sum of Rs. 1,50,000 (rupees one lakh fifty thousand) only cannot be treated as a just compensation under Section 168 of the Motor Vehicles Act. If this amount is adjudged in the light of Second Schedule to the Motor Vehicles Act, 1988 as amended in the year 1994, the amount of Rs. 1,50,000 without applying the appropriate multiplier also appears to be less since the Schedule itself prescribes a multiplier of 17 for a deceased less than aged 25 years but above 20 years.

4. Hence it is considered appropriate that a multiplier of 17 be applied to the income of the deceased which is computed at Rs. 12,000 per year as a result of which the figure would come to Rs. 2,04,000. The claimants cannot be held entitled less than this amount.

5. In addition to that amount, they are entitled to at least an amount of Rs. 1,000 per month which the deceased was handing over to his family for their sustenance and for this purpose a sum of Rs. 1,00,000 should be awarded towards future loss of income of the deceased. Thus, the overall compensation payable on account of the deceased would be Rs. 3,04,000 (rupees three lakh four thousand only). The respondent No. 3 New India Assurance Co. Ltd. is directed to pay the balance amount of compensation to the appellants expeditiously. The impugned award accordingly stands modified and the appeal be treated as disposed of.