

Dhirendra Kumar Rabha and ors. Vs. Member, Motor Accident Claims Tribunal and ors.

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Court : Guwahati

Decided On : Feb-08-2001

Reported in : II(2001)ACC633,2003ACJ1100

Judge : J.N. Sarma and ;P.G. Agarwal, JJ.

Acts : [Fatal Accidents Act, 1855](#);; [Motor Vehicles Act, 1988](#) - Section 168(1);;
[Motor Vehicles Act, 1939](#) - Sections 92-A, 92-B and 110-B

Appeal No. : M.A.F. No. 195 of 1997

Appellant : Dhirendra Kumar Rabha and ors.

Respondent : Member, Motor Accident Claims Tribunal and ors.

Advocate for Def. : Mr. A.K. Goswami, ;Mr. D. Das and ;Mr. P.K. Barman, Advs.

Advocate for Pet/Ap. : Mr. M.K. Choudhury and ;Mr. P.C. Kalita, Advs.

Disposition : Appeal partly allowed

Judgement :

J.N. Sarma, J.

1. This appeal has been filed by the Claimant against the judgment and award dated 18.02.1997 passed by the Member, Motor Accident Claims Tribunal, Kamrup at Guwahati in MA.C.Case No.872(K)90. A lady aged about 40 years died in a motor accident. She was a subject teacher in Rajghar Bora H.S. School, Azara and her salary was Rupees Four thousand five hundred. At the time of death she left her husband and claimants No. 2 and 3, the minor children, namely Kumari Anindita Das Rabha, daughter and Shri Arunabh Das Rabha, the son. The learned Tribunal on consideration of the materials on record awarded a sum-of Rupees Two lakhs five thousand with interest at the rate of Rs. 12% from the date of filing of the application.

2. We have heard Shri M.K. Choudhury, learned Advocate for the appellants, Shri A.K. Goswami, learned Advocate for the respondent No. 4 and Shri Barman, learned counsel for the respondent No. 7 and Shri Das, learned counsel for respondents No. 2 and 3. None appears for the other respondents.

3. On perusal of the materials on record and after hearing of the learned counsel for the parties we feel that just compensation has not been awarded in this case. It can not be said that the minors were not dependence on the income of their mother as has been held by the learned Tribunal, that the income of the mother which has been contributed to the family, the minor would have been in a position to live a more better life. If any authority requires to see the proposition of law, can see 1999 (1) SCC 90 (Helen C.Rebello (Mrs) and others, Appellant v. Maharashtra State Road Transport Corporation and Another, respondents) which is quoted below :

'The Act, in relation to the payment of compensation to the claimant is a beneficial legislation. The intention of the legislature is made more clear by the change of language from what was in the [Fatal Accidents Act, 1855](#) and what is brought under Section 110-B of 1939 Act. This is also stable through the provision of Section 168(1) under the [Motor Vehicles Act, 1988](#) and Section 92-A of 1939 Act which fixes the liability on owner of the vehicle even on no fault. Section 92-B ensures that the claim for compensation under Section 92-A is in addition to any other right to claim compensation in respect thereof under any other provision of

this Act or of any other law for the time being in force. This clearly indicates the intention of the legislature which is conferring larger benefit on the claimant. Interpretation of such beneficial legislation is also well settled. Whenever there be two possible interpretations in such statute, then the one which subserves the object of legislation viz. benefit to the subject should be accepted. In the present case two interpretations have been given of this statute, evidenced by two distinct sets of decisions of the various High Courts. Therefore the set of decisions, which applied the principle of no deduction of life insurance amount, should be accepted and the other set, which interpreted to deduct, is to be rejected.'

That aspect of the matter can not and should not be ignored. But that is, what has been done by the learned Tribunal.

4. In that view of the matter we enhance the compensation to Rupees Three lakhs five thousand, enhancing by another Rupees One lakh. However, we say that the interest on the enhanced amount shall run from to-day. Accordingly the appeal is partly allowed. It is needless to say that the amount shall be paid by the Insurance Company who has been found liable by the learned Tribunal.