Rukhmani Dewangan and Others Vs. Arvind Kumar Patel and Others

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Court : Chhattisgarh

Decided On : Jan-06-2012

Judge : The Honourable Chief Justice Mr. Rajeev Gupta &Amp; Rangnath Chandrakar

Appeal No. : Misc Appeal C No 277 of 2010

Appellant : Rukhmani Dewangan and Others

Respondent : Arvind Kumar Patel and Others

Advocate for Def. : Shri. Amrito Das, Ms. Jyothi Rathour

Advocate for Pet/Ap. : Shri. A.P. Sharma

Judgement :

(Memo of appeal under Section 173 of Motor Vehicle Act)

Rajeev Gupta, C.J.

1) This is claimants' appeal for enhancement of the compensation awarded by the Motor Accidents Claims Tribunal, Raipur (for short `the Tribunal') vide award dated 20.03.2007, passed in Claim Case No.60/2006.

2) As against the compensation of Rs.10,98,000/- claimed by the appellants/ claimants, unfortunate widow, children and mother of deceased Kishan Lal Sahu, by filing a claim petition under Section 166 of the Motor Vehicles Act, for his death

on 27.03.2006 on account of the injuries sustained by him in the motor accident on 17.03.2006, the Tribunal awarded a total sum of Rs.2,82,000/- as compensation along with interest @ 6% per annum from the date of filing of the claim petition till the date of actual payment.

3) The Tribunal on a close scrutiny of the entire evidence led before it held that deceased Kishan Lal Sahu died on 27.03.2006 on account of the injuries sustained by him in the motor accident on 17.03.2006; the accident occurred due to rash and negligent driving of the motorcyclist of the offending Hero Honda Motorcycle bearing registration No.CG-04-CM/5744; as the above offending Hero Honda Motorcycle, on the date of the accident, was insured with the Ifco Tokyo General Insurance Company Limited and the Insurance Company could not establish any breach of the policy conditions, the Insurance Company was liable to pay the compensation to the claimants.

4) As the respondents have not filed any appeal against the award, the above findings recorded by the Tribunal have now attained finality.

5) The Tribunal assessed the income of the deceased at Rs.1,500/- per month and Rs.18,000/- per annum. By deducting 1/3rd of Rs.18,000/- towards the personal expenses of the deceased, the claimants' dependency was assessed at Rs.12,000/- per annum. By multiplying the annual dependency of Rs.12,000/- with the multiplier of 16, the compensation was worked out to Rs.1,92,000/-. By awarding further sum of Rs.28,000/- under other heads and Rs.62,000/- towards medical expenses, the Tribunal awarded a total sum of Rs.2,82,000/- as compensation to the claimants for the death of deceased Kishan Lal Sahu in the motor accident. The Tribunal further directed payment of interest on the above amount of compensation of Rs.2,82,000/- @ 6% per annum from the date of filing of the claim petition till the date of actual payment.

6) Shri A.P. Sharma, learned counsel for the appellants submitted that the Tribunal has erred in not accepting the claimants' evidence about the income of the deceased and in assessing his income at Rs.1,500/- per month and Rs.18,000/- per annum only; in deducting 1/3rd of the income of the deceased in place of 1/4th towards his personal expenses; and in awarding low compensation of

Rs.2,82,000/- only.

7) Shri Amrito Das, learned counsel for respondent No.3, the Ifco Tokyo General Insurance Company Limited, the insurer of the offending Hero Honda Motorcycle, on the other hand, supported the award and contended that the compensation of Rs.2,82,000/- awarded by the Tribunal is just and proper compensation in the facts and circumstances of the present case.

8) Ms. Jyothi Rathour, learned counsel for respondent No.1- motorcyclist of the offending Hero Honda Motorcycle also supported the award.

9) True, the claimants pleaded that deceased Kishan Lal Sahu used to earn Rs.5,000/- per month as Tailor, no cogent and reliable evidence was led before the Tribunal for establishing the above occupation of the deceased and his income to the extent of Rs.5,000/- per month. In this state of evidence, we do not find any fault in the approach of the Tribunal in discarding the claimants' evidence about the income of the deceased.

10) Nevertheless, the income of the deceased assessed by the Tribunal at Rs.1,500/- per month and Rs.18,000/- per annum in the year 2006 is certainly on the lower side and requires reconsideration.

11) Considering that deceased Kishan Lal Sahu was aged about 40 years on the date of the accident, we are of the opinion that he could have easily earned Rs.70 -75/- per day even by working as an unskilled labour, in the year 2006. We, therefore, propose to re-compute the compensation taking the income of the deceased at Rs.2,000/- per month and Rs.24,000/- per annum.

12) Considering that the family of the deceased consisted of himself, his widow, his five minor children and mother, we deem it proper to deduct 1/4th of the income of the deceased towards his personal expenses. The claimants' dependency, therefore, is assessed at Rs.18,000/- per annum by deducting 1/4th of Rs.24,000/- towards the personal expenses of the deceased.

13) Considering that deceased Kishan Lal Sahu was aged about 40 years on the date of the accident, the appropriate multiplier in the case would be 15 in view of

the dictum of the Apex Court in the case of Sarla Verma (Smt) and Others Versus Delhi Transport Corporation and another, reported in (2009) 6 SCC 121 wherein multiplier of 15 has been prescribed for the age group between 36-40 years.

14) By multiplying the annual dependency of Rs.18,000/- with the multiplier of 15 the compensation works out to Rs.2,70,000/-. The claimants are further entitled to receive Rs.5,000/- towards funeral expenses; Rs.5,000/- for loss of estate; and Rs.5,000/- for loss of consortium to the widow. By adding further sum of Rs.62,000/- awarded by the Tribunal towards medical expenses (as the deceased remained under treatment for a period of 10 days), the claimants become entitled to receive a total sum of Rs.3,47,000/- as compensation for the death of deceased Kishan Lal Sahu in the motor accident.

15) Learned counsel for the parties submitted that with a view to avoid any possible dispute between the parties before the Tribunal about the period for which the claimants are entitled to receive interest on the enhanced amount of compensation, the amount of interest on the enhanced amount of compensation may be quantified in this appeal itself.

16) Considering all the relevant aspects of the matter including the delay in disposal of the claim petition and the present appeal and the fact that the Insurance Company alone is not be blamed for the entire delay in the matter, we quantify the amount of interest on the enhanced amount of compensation of Rs.65,000/- at Rs.10,000/-.

17) For the foregoing reasons, the appeal filed by the appellants/ claimants for enhancement of the compensation is allowed in part. The compensation of Rs.2,82,000/- awarded by the Tribunal is enhanced to Rs.3,47,000/- with further quantified amount of interest of Rs.10,000/- on the enhanced amount of compensation of Rs.65,000/-.

18) Respondent No.3 the Ifco Tokyo General Insurance Company Limited is granted three months' time for depositing the total sum of Rs.75,000/- (Rupees Seventy-five thousand only) (Rs.65,000/- towards enhanced amount of compensation + Rs.10,000/- towards quantified amount of interest on the

enhanced amount of compensation of Rs.65,000/-) before the concerning Claims Tribunal.

19) No order as to costs.