

Devtn and Others Vs. Balveer Singh and Others

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Court : Chhattisgarh

Decided On : Jan-06-2012

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

Appeal No. : M A C No 1465 of 2009

Appellant : Devtn and Others

Respondent : Balveer Singh and Others

Advocate for Pet/Ap. : Shri. Basant Dewangan

Judgement :

(Appeal under Section 173 of the Motor Vehicles Act.)

Rajeev Gupta, C.J.

1) This is claimants' appeal for enhancement of the compensation awarded by the Additional Motor Accident Claims Tribunal, Rajnandgaon (for short 'the Tribunal') vide award dated 31.03.2009, passed in Claim Case No.88/2008.

2) As against the compensation of Rs.25,00,000/-, claimed by the appellants/claimants, unfortunate widow and children of deceased Basant Rajak by filing a claim petition under Section 166 of the Motor Vehicles Act, for his death in the motor accident on 26.11.2006, the Tribunal awarded a total sum of

Rs.1,95,808/- as compensation to the claimant 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 Basant Rajak died on account of the injuries sustained by him in the motor accident on 26.11.2006; the accident occurred due to rash and negligent driving of the driver of the offending vehicle Truck bearing registration No.CG-04 ZC 0483; as the above offending vehicle Truck on the date of the accident was insured with the National 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 insurer of the above offending vehicle Truck has not filed any appeal against the impugned award challenging the above findings recorded by the Tribunal, the same now have attained finality.

5) The Tribunal assessed the income of the deceased at Rs.2,622/- per month and Rs.31,464/- per annum. By deducting 1/3rd of Rs.31,464/- towards the personal expenses of the deceased, the claimants' dependency was assessed at Rs.20,976/- per annum. By multiplying the annual dependency of Rs.20,976/- with the multiplier of 8, the compensation was worked out to Rs.1,67,808/-. By awarding further sum of Rs.28,000/- under other heads, the Tribunal awarded a total sum of Rs.1,95,808/- as compensation to the claimants for the death of deceased Basant Rajak in the motor accident. The Tribunal further directed payment of interest on the above amount of compensation of Rs.1,95,808/- @ 6% per annum from the date of filing of the claim petition till the date of actual payment.

6) Shri Basant Dewangan, learned counsel for the appellants submitted that, though the Tribunal has rightly assessed the income of the deceased at Rs.2,622/- per month and Rs.31,464/- per annum and the claimants' dependency at Rs.20,976/- per annum, it has erred in selecting the lower multiplier of 8; and in awarding low compensation of Rs.1,95,808/- only.

7) Shri Q Aziz, learned counsel for respondent No.3 the National Insurance Company Limited, the insurer of the offending vehicle Truck, on the other hand supported the award and contended that the compensation of Rs.1,95,808/- awarded by the Tribunal is just and proper compensation in the facts and circumstances of the present case.

8) As learned counsel for the appellants has not challenged the assessment of the income of the deceased by the Tribunal at Rs.2,622/- per month and Rs.31,464/- per annum, and the claimants' dependency at Rs.20,976/- per annum, we have not examined these aspects of the matter.

9) From para 11 of the impugned award we gather that the Tribunal considered the age of the deceased as 45 years. 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 Supreme Court Cases 121 prescribes multiplier of 14 for the age group between 41-45 years. The Tribunal, therefore, ought to have selected multiplier of 14 in the present case.

10) By multiplying the annual dependency of Rs.20,976/- with the multiplier of 14, the compensation works out to Rs.2,93,664/-. By adding further sum of Rs.5,000/- towards funeral expenses; Rs.5,000/- for loss of consortium to the widow; and Rs.5,000/- for loss of estate, the claimants become entitled to get a total sum of Rs.3,08,664/- as compensation for the death of deceased Basant Rajak in the motor accident.

11) Learned counsel for the parties submitted that with a view to avoid any possible dispute between the parties 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.

12) 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 to be blamed for the entire delay in the matter, we quantify the amount of interest on the enhanced amount of compensation of

Rs.1,12,856/- at Rs.12,144/-.

13) For the foregoing reasons, the appeal filed by the appellants/claimants for enhancement of the compensation is allowed in part. The compensation of Rs.1,95,808/- awarded by the Tribunal is enhanced to Rs.3,08,664/- with further quantified amount of interest of Rs.12,144/- on the enhanced amount of compensation of Rs.1,12,856/-.

14) Respondent No.3 the National Insurance Company Limited is granted three months' time for depositing the total sum of Rs.1,25,000/- (Rupees one lakh twenty-five thousand only) (Rs.1,12,856/- towards enhanced amount of compensation + Rs.12,144/- towards quantified amount of interest on the enhanced amount of compensation of Rs.1,12,856/-) before the concerning Claims Tribunal.

15) No order as to costs.

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