
(2009) 11 RAJ CK 0019

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 255 of 2000

Abdul Zabbar and Another

APPELLANT

Vs

Kulwant Singh and Others

RESPONDENT

Date of Decision : 17-11-2009

Acts Referred:

Citation : (2011) 1 TAC 480

Hon'ble Judges : Mahesh Bhagwati, J

Bench : Single Bench

Judgement

Mahesh Bhagwati, J.—Being dissatisfied with the amount of compensation, the Appellants have preferred this appeal for the enhancement of quantum of compensation.

2. An unfortunate accident took place on 31st May, 1986 at about 11.30 a.m. on Nasirabad-Bhilwara road when the deceased child Shamim alongwith her mother alighed from the bus at Bus Stand Jhadwasa. It is alleged that when she reached near the road, suddenly a truck bearing Registration No. CHW.-7111 emerged at Jhadwasa Bus Stand from Nasirabad side, sans blowing any horn, which was being driven by its driver at a fast speed and crushed the deceased Shamim resulting into her death on the spot as her brain matter flushed from the skull.

3. Heard learned Counsel for the parties and perused the impugned award.

4. The learned Counsel for the Appellants has canvassed that the deceased Kumari Shamim was of the age of 4 years at the time of accident. In the case of Smt. Malti and 52 Ors. v. M.K. Vasu and 52 Ors. reported in. 2008 (1) W.L.C 589 this Court while placing reliance on the judgments of Hon"ble Apex Court delivered in the cases of Manju Devi And Anr. v. Musafir Paswan and Anr. 2005 (1) T.A.C. 609 , and U.P. State Road Transport Corporation and Others Vs. Trilok Chandra and Others, held that the claimants of the victim child in the age group up to 5 years, shall be entitled to compensation to a sum of Rs.1,00,000/. Hence, in the light of this judgment, the Appellant-claimant may also be held

entitled to claim Rs. 1,00,000/- as compensation according to law. The learned Tribunal has, without assigning any reason, arbitrarily, decreed a lump-sum amount of 70,000/- in favour of the claimants-Appellants, which is not in accordance with the provisions of law. Hence, the amount of compensation may be enhanced and the impugned award may be modified.

5. learned Counsel for the Respondent has defended the impugned award and called the same to be just and proper and prayed to dismiss the appeal.

6. In case titled Manju Devi and Anr. v. Musafir Paswan and Anr. 2005 (1) T.A.C. 609 , while determining compensation on account of death of a 13 year old child, the Supreme Court considered the judgment delivered in case titled U.P. State Road Transport Corporation and Others Vs. Trilok Chandra and Others, and applied the multiplier of 15 as per II Schedule annexed with the Motor Vehicles Act, 1988 taking notional income of Rs. 15,000/- being a non-earning person and awarded compensation of Rs. 2,25,000/- observing as under:

In the case of U.P. State Road Transport Corporation and Others Vs. Trilok Chandra and Others, it has been held by this Court that there should be no departure from the multiplier method on the ground that payment being made is just compensation. It has been held that the multiplier method must be accepted method for determining and ensuring payment of just compensation as it is the method which brings uniformity and certainty to awards made all over the country. In view of this authority, it will have to be held that the award of compensation had to be made by the multiplier method.

As set out in the Schedule to the Motor Vehicles Act, 1988, for a boy of 13 years of age, a multiplier of 15 would have to be applied. As per the Second Schedule, he being a non-earning person, a sum of Rs. 15,000/- must be taken as the income. Thus, the compensation comes to Rs. 2,25,000.

7. this Court in the case of Smt. Malti and 52 Ors. (supra), while relying upon the judgments of Hon'ble Apex Court held that the claimants of the victim child in the age group up to 5 years shall be entitled to compensation to a sum of Rs. 1,00,000/-. In the instant appeal, the victim child, Kumari Shamim, is found to have been 4 years old at the time of death. Hence, I hold the claimants entitled to compensation to a sum of Rs. 1,00,000/- and the amount of compensation under the impugned award is ordered to be enhanced accordingly.

8. For these reasons, the appeal is partly allowed. The amount of compensation under the award is raised from Rs. 70,000/- to Rs. 1,00,000/-.

Rest of the terms under the award shall remain unchanged. The impugned award stands modified accordingly.

9. There shall be no order as to costs.