(2009) 04 JH CK 0006

In the Jharkhand High Court

Case No : M.A. No. 38 of 2008

Agnashia Khalkho and others — APPELLANT

Vs

New India Assurance Co. Ltd. and another — RESPONDENT

Date of Decision : 27-04-2009

Acts Referred:

Citation : (2011) ACJ 776 : (2010) 5 RCR(Civil) 491

Hon'ble Judges : M.Y. Eqbal, J;Jaya Roy, J

Bench : Division Bench

Final Decision : Allowed

Judgement

M.Y. Eqbal & Jaya Roy, JJ.—This appeal by the claimants-appellants is for enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Ranchi in Compensation Case No. 200 of 2003.

2. The deceased was aged about 40 years and died in a motor vehicle accident. The deceased while going to Gargaon from his house was dashed by a bus as a result of which he succumbed to the injuries. The claimants, who are the widow, minor daughter and parents of the deceased jointly filed the claim application for the grant of compensation stating, inter alia, that the deceased was an agriculturist and was earning Rs. 3,000 per month. Evidence to that effect was led by the claimants but the Tribunal came to the different finding:

So far the annual income of the deceased, Dinesh Khalkho is concerned, the evidence of CW 1, Agnashia Khalkho, the widow of the deceased Dinesh Khalkho has come on the record. She has stated that the income of her husband was Rs. 3,000 per month from agricultural work, she appears to have stated so merely for the sake of getting more money from the award of compensation. There is also not available a single chit of paper on the record, which may throw some light on the income of the deceased Dinesh Khalkho and only it has been stated that the deceased was engaged in agricultural work but income of the deceased has not been proved and Exh. 1 i.e., extract copy of khatiyan goes to show that many names of persons find place in the khatiyan, i.e., Exh. 1 as recorded as owner in the said khatiyan. Exh. 1 as such having regard to the facts, evidence and circumstances of the case, I, thus, do not find any reliable evidence regarding income of the deceased and thus intend to keep him in the category of non-earning person. I, therefore, consider his annual income to be Rs. 15,000 (rupees fifteen thousand) per annum as per the Second Schedule to the Motor Vehicles Act, 1988. Since 73rd of the annual income of the deceased has been held to be his personal living expenses for maintaining himself, as such the net annual income of the deceased shall be deducted by 1/3rd for the deceased personal living expenses and when I do so, it would be arrived at Rs. 10,000 (rupees ten thousand) per annum. Now when the age of the deceased has been assessed to be of 40 years, the appropriate and suitable multiplier in his case would be 16. I multiply it with the annual dependency of the deceased for his dependants, the multiplicand would come at Rs. 1,60,000 (rupees one lakh sixty thousand). I further want to award Rs. 2,000 (rupees two thousand) in terms of funeral expenses of the deceased and Rs. 5,000 as consortium. When I add all these stated amount together, the total amount of the compensation would come to Rs. 1,67,000 (rupees one lakh sixty-seven thousand) awardable to the claimants. Accordingly the issue Nos. 4, 5 and 6 are decided in favour of the claimants and against the O.Ps.

3. Admittedly, no evidence was led from the side of the owner of the vehicle or the insurance company denying or disputing the fact that the deceased was an earning member. When evidence was led by the claimants that earnings of the deceased was Rs. 3,000 from agricultural income then the Tribunal should not have discarded the evidence merely because the names of the ancestors were recorded in the record of right in respect of agricultural land.

4. Be that as it may, if we take monthly earnings of the deceased at Rs. 2,500 the annual income comes to Rs. 30,000. After deducting 1/3rd the annual dependency comes to Rs. 20,000. Taking multiplier of 15, the net amount comes to Rs. 3,00,000, which in our view is just and proper compensation particularly considering the fact that the deceased died leaving behind his widow, minor daughter and old parents.

5. This appeal is, therefore, allowed and the amount of compensation is enhanced to Rs. 3,00,000 (rupees three lakh) which shall carry interest as awarded by the Tribunal.