

(2017) 07 RAJ CK 0052
In the Rajasthan High Court
Case No : 793 of 2000

Ajab Lal s/o. Shri Motilal, by caste Jain	APPELLANT
Vs	
Babulal s/o. Ganesh Ram	RESPONDENT

Date of Decision : 20-07-2017

Acts Referred:

Citation : (2017) 07 RAJ CK 0052

Hon'ble Judges : Arun Bhansali

Bench : SINGLE BENCH

Advocate : M.S. Soni, Rajesh Panwar, M.R. Pareek

Judgement

1. This appeal is directed against judgment & award dated 18.08.2000 passed by the Motor Accident Claims Tribunal, Sirohi ("the Tribunal"), whereby the Tribunal has awarded a lump sum compensation of RS. 70,000/- alongwith interest @ 12% per annum form the date of application i.e. 27.04.1995 and a sum of RS. 1,000/- towards costs.
2. The application for compensation was filed by husband and children of the deceased Suraj Bai. It was, inter alia, claimed that the said Suraj Bai was travelling in Jeep No. RJ-12-C-0322 from Jaipur to Mount Abu, when the offending Bus belonging to the Corporation struck the Bus, resulting in grievous injuries to Suraj Bai, to which, she succumbed. It was claimed that the deceased was aged 45 years and was involved in business of dairy products and used to contribute Rs. 2,000/- to the family. Based on the

said averments, compensation to the tune of Rs. 7,08,000/- was claimed.

3. The application was contested by the respondents. The Tribunal framed eight issues. On behalf of the claimants, AW-1 - Ajablal, husband of the deceased and one Gajanand, AW-2 were examined.

4. After hearing the parties, the Tribunal came to the conclusion that the accident occurred on account of rash and negligent driving by the driver of the Bus. While assessing the compensation, the Tribunal came to the conclusion that age of the deceased was 55 years, there was no proof that she was engaged in business and, therefore, awarded a lump sum of Rs. 70,000/- as compensation alongwith interest as noticed hereinbefore.

5. It is submitted by learned counsel for the appellants that the Tribunal committed error in awarding a lump sum compensation of Rs. 70,000/- only to the claimants. It was submitted that it is well settled that even if the deceased was a homemaker only, it cannot be said that she had not contributed to the family and, therefore, the assessment was required to be made by at least taking a notional income of the deceased and, therefore, the Tribunal was not justified in awarding a lump sum compensation of Rs. 70,000/- only.

6. It was further submitted that there were as many as seven claimants i.e. husband and six children, however, no amount has been awarded towards loss of consortium and loss of love & affection and, therefore on that count also the award deserves modification.

7. Learned counsel appearing for the respondent-Corporation submitted that the amount of compensation awarded is adequate and the same does not call for any interference.

8. I have considered the submissions made by learned counsel for the parties and have perused the material available on record.

9. So far as the age of the deceased is concerned, though in examination-in-chief, it was submitted that her age was 45 years, in cross-examination, it was admitted that her age was indicated in the Ration Card as well as the Postmortem Report as 55 years and, therefore, the Tribunal was justified in taking the age of the deceased as 55 years.

10. There is substance in the submissions made by learned counsel for the appellants that the Tribunal was not justified in awarding lump sum compensation of Rs. 70,000/- to the claimants by holding that the deceased was not engaged in any business. It is well settled that even for a homemaker, it cannot be said that the homemaker does not contributing anything to the family and for her death on account of accident, the family is not entitled to claim compensation based on her such contribution.

11. In view thereof, the award of lump sum compensation cannot be sustained.

12. As submitted by learned counsel for the appellants, the income of the deceased is taken as notional in terms of II Schedule of the Act at Rs. 15,000/- annually and after applying multiplier of 11 in terms of the judgment of Hon"ble Supreme Court in the case of Sarla Verma v. Delhi Transport Corporation : (2009) 6 SCC 121, the claimants would be entitled to compensation to the tune of Rs. 1,65,000/- towards loss of income. Further, the claimants are also entitled for compensation towards loss of consortium as well as loss of love & affection and under the said heads, for loss of consortium, the husband of the deceased is entitled to a sum of Rs. 15,000/- and each of the children of the deceased is entitled to a sum of Rs.10,000/-

towards loss of love & affection. The claimants would also be entitled to interest @ 7% per annum on the enhanced amount from the date of application i.e. 27.04.1995.

13. Consequently, the appeal filed by the appellants is partly allowed. The award dated 18.08.2000 passed by the Tribunal is modified and it is ordered that the claimants would be entitled to a sum of Rs.2,40,000/- as compensation instead of Rs.70,000/- as awarded by the Tribunal.

14. The enhanced amount of compensation i.e. Rs.1,70,000/- alongwith @ 7% per annum from the date of application i.e. 27.04.1995 be paid to the claimants within a period of eight weeks from the date of this judgment.

15. The enhanced amount of compensation alongwith interest be paid to Ajablal, husband of the deceased only in his Saving Bank Account.