(2014) 07 TP CK 0038

In the Tripura High Court

Case No : Mac App. No. 106 of 2008

Ajgar Ali VsPradip Das

Date of Decision : 09-07-2014

Acts Referred:

Citation : (2014) 07 TP CK 0038

Hon'ble Judges : Deepak Gupta, C.J

Bench : Single Bench

Advocate : T.D. Majumder, Advocate and M. Debbarma, Advocate for the Appellant; K. Bhattacharji, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Deepak Gupta, C.J.—This appeal by the claimant-parents is directed against the award, dated 22nd July 2008, passed by the learned Motor Accident Claims Tribunal, Sonamura, West Tripura in Case No. TS(MAC)15 of 2008, whereby the learned Tribunal awarded a sum of Rs. 1,61,300/- along with interest to the claimants as compensation.

2. The Tribunal assessed the compensation by assessing the loss of dependency at Rs. 1,56,000/-, Rs. 800/- was awarded for treatment expenses, Rs. 1,000/- for transportation, Rs. 1,500/- for bringing the dead body to the hospital and Rs. 2,000/- for funeral expenses. The insurance company has not challenged the award and, therefore, the only issue is with regard to the quantum of compensation.

3. The claim of the parents was that the deceased Raju Miah was employed with Swamiji Brick Industries at a salary of Rs. 6,000/- per month. One of the partners of this firm appeared in the witness box and stated that the deceased was employed as a ''Pump Operator'' in September, 2007 and his monthly salary was Rs. 6,000/-. A salary certificate has also been produced. In reply to a Court''s question this witness has admitted that its establishment is covered under the provisions of the Employees'' Provident Funds Scheme and Raju Miah was also covered under the scheme.

4. When any establishment is covered under the Employees'' Provident Funds Scheme then obviously it is required to maintain certain books of accounts including a register of employees, salary register etc. In such cases the best evidence to prove the salary of the employee is by producing the books of accounts and mere production of a salary certificate is not sufficient. A salary certificate can be given by any official or any business organization and the same must be tested against the original records such as the books of accounts, salary registers, receipt of salaries etc. which are the contemporaneous record with regard to the salary. In this case, therefore, the learned Tribunal was justified in not accepting the salary of Rs. 6,000/- per month.

5. Having held so, I am not at all in agreement with the learned Tribunal that the income of the deceased, who was an able bodied young boy, aged about 18 years, should be taken at Rs. 100/- per day. Even the wages payable under N-REGA are more than that and any able bodied person could earn Rs. 150 to Rs. 200/- per day in the year 2008 when the accident took place. Even if the lower level Rs. 150/- is taken the income is to be Rs. 4,500/- per month.

6. Next comes the question as to what should be the deduction. In Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, case the Apex Court has clearly held that where the parents are the claimants the multiplier should be used keeping in view the age of the claimants or the deceased whichever is higher and, therefore, the learned Tribunal was justified in taking into consideration the age of the deceased and applying a multiplier of ''13''. But even if multiplier of ''13'' is to be applied and 50% deduction is to be made then the datum figure per month comes to Rs. 2,250/- and the annual loss comes to Rs. 27,000/- and if a multiplier of 13 is applied the compensation works out to Rs. 3,51,000/-. In addition to this, a sum of Rs. 4,000/- in lump sum is granted for treatment expenses and taking the injured to the hospital. The claimants are also held entitled to Rs. 10,000/- for funeral expenses and Rs. 20,000/- for conventional damages, loss of love and affection etc. Therefore, total compensation works out at Rs. 3,85,000/-.

7. In view of the above discussion, the appeal is allowed and the award of the learned Tribunal is modified. The compensation is enhanced from Rs. 1,61,300/- to Rs. 3,85,000/- which is apportioned as follows:

8. On this amount the claimants shall also be entitled to interest @ 7.5% per annum from the date of filing of the claim petition till deposit of the same. The insurance company is directed to deposit the awarded amount along with interest in the Registry of this Court within 4(four) months from today after deducting the amount which it has already deposited. The amount falling to the share of the father shall be released to him and out of the amount falling to the share of the mother Rs. 1,00,000/- shall be released to her. The amounts be remitted to their personal Bank account details whereof along with photocopy of the first page of the passbook be submitted in the Registry of this Court within 1(one) month from today. The remaining amount including the interest shall be kept in a fixed

deposit initially for a period of 5(five) years. The interest accruing on this deposit shall be released on quarterly basis.

The appeal is disposed of.

