

(2019) 09 RAJ CK 0140
In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 44 Of 1999, 886 Of 2003

Ashok Kumari And Ors

APPELLANT

Vs

Krishan Lal And Ors

RESPONDENT

Date of Decision : 16-09-2019

Acts Referred:

Citation : (2019) 09 RAJ CK 0140

Hon'ble Judges : Dr. Pushpendra Singh Bhati, J

Bench : Single Bench

Advocate : Dhanesh Saraswat, Shubham Modi, Jagdish Vyas

Final Decision : Disposed Off

Judgement

1. Heard the learned counsel for the parties and perused the record.
2. Civil Misc. Appeal No.886/2003 has been preferred by the appellants/claimants for enhancement of the award amount while Civil Misc. Appeal No.44/1999 has been preferred by the appellant insurance company challenging the impugned award dated 13.10.1998 passed by Motor Accident Claims Tribunal, Bhilwara in MACT Case No.476/1994.
3. Brief facts as noticed by this Court are that on 25.6.1994, deceased Vinay Kumar, son of the claimants, was travelling from Hyderabad to Delhi in Truck No. HIK 4867 as a second driver. After taking dinner at Village Danta Payra on Bhilwara-Ajmer road, while they were boarding in truck, at that time, Truck No.HR 06-A-4590, which was being driven rashly and negligently, came and hit Vinay Kumar, who suffered various injuries and ultimately died during treatment.

CIVIL MISC. APPEAL NO.886/2003 :-

4. Learned counsel for the appellants/claimants limits his submission to enhancement of monthly income from Rs.1,000/- to Rs.2,000/- as the same has been properly proved in the statement of owner of the truck who has deposed before the Tribunal and stated that deceased Vinay Kumar was receiving

Rs.2,000/- per month.

5. Learned counsel for the insurance company has strongly refuted the submissions on the count that no proof was led by the owner or the parents of deceased Vinay Kumar of direct payment and it was only on the owner's oral submission that payment of Rs.2,000/- was being averred as monthly wages. Learned counsel for the insurance company submits that the minimum wages prevalent at that time were Rs.832/- / 572/- and thus, by no stretch of imagination, the monthly wages of the deceased could not be Rs.2,000/-.

6. After hearing the learned counsel for the parties and after perusing the record and in particular deposition of the owner, this Court is of the opinion that the monthly wages of Rs.2,000/-averred and claimed was genuine and the learned Tribunal ought to have accepted the same. Thus, this Court makes the following calculation while treating the monthly income of deceased to be Rs.2,000/- and in terms of guidelines laid down in judgments rendered in National Insurance Company Ltd. vs. Pranay Sethi reported in AIR 2017 SC 5157 / Sarla Verma and others vs. DTC and others reported in (2009) 6 SCC 121 :-

Sr. No.

Heads

Rs.

1.

Compensation under the head of salary :-

Salary	Rs.2,000/-
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40% future prospects	Rs.800/-
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Total	Rs.2,800/-
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Less self expenditure 50%

(unmarried)

(2,800 - 1,400)	Rs.1,400/-
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Yearly	Rs.16,800/-
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Multiplier 18 x 16,800	Rs.3,02,400/-
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3,02,400/-

2.

General Damages

30,000/-

Net Compensation

(3,32,400 - 1,06,000 (already awarded)

Rs.2,26,400/-

(enhanced)

7. The insurance company shall pay the net compensation of Rs.2,26,400/- along with interest at the rate of 6% per annum from the date of filing the claim petition. The entire amount shall be paid within a period of two months from today, failing which the due amount shall carry interest @ 9% per annum for the subsequent period (i.e. after two months from today) till actual payment is made.

CIVIL MISC. APPEAL NO.44/1999 :-

8. Learned counsel for the insurance company submits that the license has been presumed to be correct by the Tribunal even when on the face of it, the license was fake. To demonstrate such submission, learned counsel for the insurance company has taken us to para no.8 of the impugned judgment wherein the learned Tribunal has recorded the license to be correct as it has found that the report received from the R.T.O. may not be relating to same license of the driver of the truck in question. Learned counsel for the insurance company submits that the copy of license dated 15.11.1988 is available on record as Exhibit-6 and the license no. is depicted as "K/48031". Learned counsel for the insurance company has also shown the report of R.T.O. pertaining to license no."K/48031" which is placed on record as Ex.A/2.

9. A perusal of license Exhibit-6 and report Exhibit-A/2, this Court reaches to the conclusion that the report given by the R.T.O. concerned was pertaining to driving license no."K/48031" as the same number is there in the license and report also and thus, on the face of it, it is proved that the driving license held by Krishan Lal was fake. Thus, the finding given by the learned Tribunal on the issue no.4 is reversed by this Court and it is conclusively held that the driving license no."K/48031" as shown in the name of Krishan Lal is fake and thus, this issue is decided in favour of the insurance company and the insurance company is permitted to pay compensation to the claimant and recover the same from the owner as laid down by the Hon'ble Supreme Court in the case of National Insurance Co. Ltd. vs. Swaran Singh reported in (2004) 3 SCC 297 and Parminder Singh vs. New India Assurance Company Limited and Others reported in (2019) 7 SCC 217.

10. In light of the aforesaid discussion, both these appeals are disposed of accordingly. All pending applications stand dismissed.