
(2012) 05 RAJ CK 0074

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 917 of 1999

Bajrang Lal and Another

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 15-05-2012

Acts Referred:

Motor Vehicles Act, 1988 — Section 173
Penal Code, 1860 (IPC) — Section 279, 304A

Citation : (2012) 2 WLN 567

Hon'ble Judges : Vineet Kothari, J

Bench : Single Bench

Advocate : J.R. Choudhary, for the Appellant; Lokesh Mathur on behalf of Mr. V.K. Mathur, Advocates, for the Respondent Union of India, for the Respondent

Judgement

Dr. Vineek Kothari, J.—The appellants-claimants have preferred this misc. appeal under Sec. 173 of the Motor Vehicle Act, 1988, for seeking enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal & Addl. District & Sessions Judge, Parbatsar, while deciding the Claim Case No. 70/1999-Bajrang Singh & Anr. vs. Rajendra Singh & Ors., vide the judgment and award dt. 10.08.1999, whereby the learned Tribunal has awarded compensation of Rs. 50,520/- on account of death of claimants" son, namely, Pappu @ Prem Singh. Briefly stated, the facts of the case are that the in an accident, which took place on 16.03.1997, the appellants have lost their son, namely, Pappu @ Prem Singh, who was 10 years of age at the relevant point of time and, so also, was studying in second standard. On the unfortunate day of 16.03.1997, when claimants" son (Pappu @ Prem Singh) was going on the road taking his goats for grazing, and he was standing near the house of Bhanwar Lal Khatik, a Jeep bearing registration No.RJ-21-C-3230, owned by the second respondent (Telecom District Manager, Department of Telecommunication, District-Nagaur), which was driven by its driver, namely, Rajendra Singh (respondent No. 3 herein) in a rash and negligent manner, hit the son of appellants and ran over the son of the appellants, as a result of which, he succumbed to death on the spot. The

claimants in their claim petition averred that apart from the study, their son used to earn Rs. 800/- per month from work of goats grazing etc. A case bearing FIR No. 38/97 for the offences under Sees. 279 and 304A of IPC was registered at the Police Station-Gachhipura. The claimants, therefore, filed claim petition claiming compensation on account of death of their son to the tune of Rs. 19,86,150/-.

2. The learned Tribunal after considering the evidence of the respective parties, arrived at the conclusion that compensation of Rs. 50,520/- with interest @ 12% p.a. from date of filing of claim petition till the payment is made, deserves to be granted to the claimants on account of death of their son. The said amount of compensation has already been disbursed to the claimants-appellants.

3. Mr. J.R. Choudhary, learned counsel for the appellants-claimants relied upon a decision of coordinate bench of this Court in the case of Smt. Santosh Devi & Anr. vs. Lola Ram & Ors. (SBCMA No. 298/2004, decided on 27.04.2011), in which the Hon"ble Chief Justice has held as under:

It is quite difficult to assess the compensation in the case of death of child. However, the Apex Court in New India Assurance Co. Ltd. vs. Satender & Ors. (2006 AIR SCW 6139) has laid down that reasonable compensation should be awarded in the case of death of child. The Apex Court held thus: -

There are some aspects of human life which are capable of monetary measurement, but the totality of human life is like the beauty of sunrise or the splendour of the stars, beyond the reach of monetary tape measure. The determination of damages for loss of human life is an extremely difficult task and it becomes all the more baffling when the deceased is a child and/or a non-earning person. The future of a child is uncertain. Where the deceased was a child, he was earning nothing but had a prospect to earn. The question of assessment of compensation, therefore, becomes stiffer. The figure of compensation in such cases involves a good deal of guesswork. In cases, where parents are claimants, relevant factor would be age of parents.

In cases of young children of tender age, in view of uncertainties abound, neither their income at the time of death nor the prospects of the future increase in their income nor chances of advancement of their career are capable of proper determination on estimated basis. The reason is that at such an early age, the uncertainties in regard to their academic pursuits, achievements in career and thereafter advancement in life are so many that nothing can be assumed with reasonable certainty. Therefore, neither the income of the deceased child is capable of assessment on estimated basis nor the financial loss suffered by the parents if capable of mathematical computation.

The Apex Court in the above case has awarded a sum of Rs. 1,80,000/- alongwith interest from the date of filing of petition till payment was made.

Taking income for non earning member at Rs. 15,000/- per annum making 1/3rd

deduction towards self expenditure, on account of loss of dependency, amount comes to Rs. 10,000/- per annum. Multiplier of 15 is applicable. Same is applied. The amount comes to Rs. 10,000/- x 15 = Rs. 1,50,000/-. Further sum of Rs. 30,000/- is awarded under customary head i.e. funeral expenses, loss of estate, loss of expectancy of life. Thus, total amount comes to Rs. 1,50,000/-+Rs. 30,000/- =Rs. 1,80,000/- to which the appellants are entitled, in view of the decision of the Apex Court in the case of Satender (supra) also.

Thus, the amount of compensation is enhanced from Rs. 84,000/-to Rs. 1,80,000/-. The enhanced amount shall carry interest at the rate of 7% p.a. from the date of filing petition till payment was made. The award of the Tribunal stands modified to that extent. Accordingly, the appeal stands allowed to the above extent. No costs.

4. Since the facts of the present case are almost similar to the case relied upon by the learned counsel for the appellants and the compensation awarded of Rs. 50,520/- appears to be on very lower side, therefore, this Court is inclined to suitably enhance the compensation to be paid to the claimants-appellants, who are the parents of deceased child, Pappu @ Prem Singh.

5. Accordingly, the present appeal filed by the appellants claimants is partly allowed and the compensation amount is raised by an adhoc sum of Rs. 60,000/- in lump sum, almost doubling the awarded sum, which would further carry interest @ 9% per annum from the date of filing of present appeal i.e. on 30.11.1999 till the payment is made. The respondent- Union of India (Department of Telecommunication), through Telecom District Manager, Department of Telecommunication, District Nagaur shall pay the said difference amount of compensation of Rs. 60,000/- with interest @ 9% p.a. to the claimants within a period of three months from today by issuing separate cheques of equal amount in the names of both parents, namely, Bairang Lal S/o late Sh. Manga Ram and Smt. Bhanwar W/o Sh. Bajrang Lal. If the said enhanced amount of compensation is not paid by the respondents to the claimants within a period of three months from today, the interest rate shall raise from 9% p.a. to 12% p.a., after expiry of three months till the actual date of payment. Compliance report be filed in this Court. The appeal is partly allowed. No costs. Copy of this order be sent to both parties and Tribunal below forthwith.