(2015) 03 TP CK 0010

In the Tripura High Court

Case No : MAC App. No. 33 of 2010

Bani Chanda and Others — APPELLANT

Vs

State of Tripura and Others — RESPONDENT

Date of Decision : 25-03-2015

Acts Referred:

Citation : (2015) 03 TP CK 0010

Hon'ble Judges : Deepak Gupta, C.J.

Bench : Single Bench

Advocate : S. Deb, Senior Advocate and M.K. Roy, for the Appellant; P. Dhar, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Deepak Gupta, C.J.—This appeal for enhancement of compensation has been filed by the claimants is directed against the judgment and award dated 8th January, 2010 passed by the learned Motor Accident Claims Tribunal, West Tripura, Agartala in T.S (MAC) 632 of 2005 whereby the Tribunal awarded a sum of Rs. 4,10,250/- in favour of the claimants.

2. Briefly stated the facts of the case are that the claimants are the mother, sister-in-law and niece of the deceased. In the claim petition it was alleged that the deceased was an auto rickshaw driver earning about Rs. 6,000/- per month. It was further alleged that in addition to maintaining his widowed mother the deceased was also looking after the wife of his dependent elder brother and their niece. According to the claimants the brother of the deceased is paralyzed and not in a position to earn.

3. The claim petition was contested. The learned Tribunal assessed the income of the deceased at Rs. 4,000/- per month. 50% was deducted towards personal expenses of the deceased. Multiplier of 17 was applied and compensation was assessed at Rs. 4,10,250/-. Out of the compensation of Rs. 4,10,250/-, the Tribunal has awarded Rs. 2,00,000/- to the mother and balance to claimant Nos.

2 and 3.

4. I have heard Sri S. Deb, learned senior counsel for the claimants and Ms. P. Dhar, learned counsel for the respondents.

5. It urged by Sri S. Deb, learned senior counsel on behalf of the claimants is that future prospects had not been taken into consideration and that the compensation deserves to be enhanced. The claimant No. 1, mother of the deceased examined herself as own witness. She again reiterated that her son was earning Rs. 6,000/- per month. In the affidavit it is stated that she was aged about 60 years. A suggestion was put to her that she was more than 60 years but she denied the same. In cross examination she admitted that the elder brother of the deceased was the owner of the auto-rickshaw. A suggestion was put to her that her elder son was not paralyzed. She however, admitted that her elder son had deposed in the criminal case and had appeared in Court to get his deposition recorded.

6. The statement of P.W-2 is not relevant because her evidence relates to the accident and no appeal has been filed by the State challenging the award. The sister-in-law who is stated to be dependent on the deceased did not appear in the witness box. The mother admitted that the elder brother of the deceased was the owner of the auto-rickshaw which was been driven by the deceased. This clearly indicates that the version put out by the claimants is not totally truthful.

7. In Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, dealing with the cases of bachelors the Apex Court held as follows:

"31. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent/s and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependent. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependents, because they will either be independent and earning, or married, or be dependant on the father.

32. Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where family of the bachelor is large and dependant on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third."

8. In National Insurance Company Ltd. Vs. Shyam Singh and Others, where the deceased was a bachelor and aged about 19 years and the claimants were his parents the MACT deducted 50% and applied multiplier of 9. The High Court relying upon the Sarla Verma''s case enhanced the multiplier of 18 and granted compensation. The Apex Court held that the proper multiplier was 8 and restored the judgment of the Tribunal.

9. As far as this Court is concerned, this Court has been following two methods while assessing compensation when the deceased is a bachelor and the claimants are parents. Either 50% deduction is made for the personal expenses of the deceased in which case the multiplier is applied by taking into consideration the age of the deceased. The other method is that only 1/3rd is deducted for the personal expenses of the deceased in which event the multiplier is applied by taking into consideration the age of the parents. Whatever method is applied the compensation works out approximately to be the same.

10. The income of the deceased has been assessed at Rs. 4,000/-. I am of the opinion that keeping in view the future prospects of the deceased the same can be assessed at Rs. 5,000/-. 1/3rd may be deducted for the personal expenses of the deceased which means the loss of dependency comes to Rs. 3,334/- per month or Rs. 40,008/- per year. The claimant mother was aged about 60 years at the time when her statement was recorded. Therefore, if multiplier of 9 is applied the compensation works out to Rs. 3,60,072/-. Even if the addition is made for loss of the son etc., the award of Rs. 4,10,250/- cannot be said to be unreasonable.

11. The compensation awarded by the Tribunal is just compensation calling for no enhancement. Hence the appeal is dismissed. No order as to costs.

Send down the LCRs forthwith.

