(2015) 06 TP CK 0022

In the Tripura High Court

Case No : MAC App. No. 01 of 2011

Basana Rudrapaul and Others — APPELLANT

Vs

Milan Majumder and Others — RESPONDENT

Date of Decision : 01-06-2015

Acts Referred:

Citation : (2015) 06 TP CK 0022

Hon'ble Judges : Deepak Gupta, C.J

Bench : Single Bench

Advocate : K. Nath, for the Appellant; K. Bhattacharji, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Deepak Gupta, C.J.

1. This appeal for enhancement of compensation by the claimants is directed against the judgment and award dated 11.10.2010 passed by the learned Motor Accident Claims Tribunal, West Tripura, Agartala in T.S(MAC) No. 255 of 2008 whereby the Tribunal has awarded compensation of Rs. 10,51,598/- along with interest @ 6% per annum in favour of the claimants.

2. The claim petition was filed by the parents, brother and sister of the deceased, Joydeb Rudra Paul. In the claim petition it is not disputed that the deceased was working as a Constable in the BSF. In the claim petition it was alleged that he was getting Rs. 14,000/- per month as salary and on this basis compensation was awarded. The learned Tribunal assessed the income of the deceased at Rs. 10,602/-, added 50% towards future prospects and, therefore, took the salary to be Rs. 15,903/-. The Tribunal thus deducted 50% towards the personal expenses of the deceased and applied a multiplier of 11 and awarded total compensation of Rs. 10,51,598/-in favour of the claimants.

3. 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.

4. At the outset I may state that I do not understand how the Tribunal has assessed the income at Rs. 10,602/-. The last pay certificate of the deceased has been proved on record. It shows that the deceased was getting Band Pay of Rs. 6560/-, Grade Pay of Rs. 2000/-, Basic Pay of Rs. 8560/- and DA/ADA of Rs. 1027/-. He was also getting some other allowances but even if those are not counted, the total income was Rs. 18,147/-. 50% has to be added towards future prospects and, therefore, the total amount to be taken into consideration is Rs. 27,220.50 which is rounded off to Rs. 27,220/-. 50% of the same is deducted for the personal expenses of the deceased leaving a balance of Rs. 13,610/-. Since the age of the deceased is ascertained and it was 25 years, multiplier of 18 is applied and the compensation works out to Rs. 29,39,760/-. In addition thereto the claimants are held entitled to Rs. 10,000/- for funeral expenses and Rs. 50,000/- for death of the son. Therefore, the total compensation works out to Rs. 29,99,760/-.

5. As far as the apportionment is concerned, I am clearly of the opinion that the learned Tribunal gravely eared in holding that the father was entitled to equal amount of compensation. In fact the father was not entitled to any amount of compensation and his claim, if any, is restricted to the amount which he has already taken or withdrawn. Only the mother would be entitled to the entire enhanced amount.

6. In view of the above discussion, the appeal is allowed. The award is accordingly enhanced from Rs. 10,51,598/- to Rs. 29,99,760/- i.e. by Rs. 19,48,162/-. The claimant shall also be entitled to interest on the enhanced sum of Rs. 19,48,162/- @ 7.5% per annum from the date of filing of the claim petition till deposit/payment of the amount. The insurance company is directed to deposit the enhanced amount of compensation along with proportionate interest thereupon in the Registry of this Court within six months from today. Obviously, the insurance company shall be entitled to adjust the amount(s), if any, which it has already paid or deposited.

Out of the amount so deposited only Rs. 4,00,000/- shall be released to the claimant-mother and the rest of the amount shall be kept in a fixed deposit for five years at the first instance and the interest accruing thereupon shall be paid on quarterly basis to the claimant-mother to meet her day to day expenses and after every two years another sum of Rs. 2,00,000/- shall be released to the claimant-mother till the entire amount is released to her.

7. The appeal is disposed of in the aforesaid terms. No order as to costs.

Send down the lower Court records forthwith.

