(2004) 12 RAJ CK 0016

In the Rajasthan High Court

Bhagwati APPELLANT

Vs

Shish Pal RESPONDENT

Date of Decision : 06-12-2004

Acts Referred:

Citation : (2005) 2 ACC 237

Hon'ble Judges : Dalip Singh, J

Bench : Single Bench

Judgement

Dalip Singh, J.—This appeal is directed against the award dated 11.11.1992 passed by the Motor Accident Claims Tribunal, Jaipur in M.A.C. No. 873/1991 for enhancement of the compensation awarded on account of death of Shri Jagdish in a motor accident, which took place on 2.7.1991.

2. Brief facts giving rise to the present appeal are that on 2.7.1991 the deceased met with a motor accident involving a Tanker (Truck) bearing No. RSZ 8402 being driven by respondent No. 1 rashly and negligently.

3. Learned Counsel appearing on behalf of the appellant has contended that in the instant case, the learned Tribunal has not taken into consideration the law as propounded by the Hon''ble Supreme Court in the case of General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others, and awarded Rs. 100/- only towards future prospects of earning. The submission of learned Counsel for the appellant is that the learned Tribunal came to a finding that on the date of the accident, the deceased was earning Rs. 1,091/- per month and being 30 years of the age with a reasonably assured service, therefore, his income was liable to increase as Rs. 1,200/- per month. The submission of the learned Counsel for the appellant is that this meagre increase of about Rs. 100/- is wholly inadequate. Learned Counsel for the appellant has argued on the basis of the case cited above and contended that on the aforesaid proposition of the future prospects of earning, the Hon''ble Supreme Court in the aforesaid case took the income by enhancing the income on account of the future prospects from Rs. 1,032/- to Rs. 2,000/- per month

and assessed the dependency on the basis of the notional in come of Rs. 2,000/- per month. The submission of learned Counsel for the appellant is that as in the aforesaid case of Susamma Thomas and in the instant case also the income assessed by the learned Tribunal being Rs. 1,091/- as against Rs. 1,032/- in the case of Susamma Thomas, the income should have been taken at Rs. 2,000/- taking into account the future prospects of the earning. Learned Counsel appearing on behalf of the respondents contends that the amount of the compensation arrived at by the learned Tribunal is wholly adequate and calls for no interference by this Court. In the alternative, the submission of the learned Counsel for the respondent is that in case the income is notionally increased to Rs. 2,000/-, then the multiplier as is provided under the Schedule-II should be adopted.

4. Having considered the rival submissions at the bar, I hold that in the instant case in the light of the observations made by the Hon''ble Supreme Court, the notional income of the deceased should be taken as Rs. 2,000/- and in the light of the provisions contained in the Schedule-II of the Motor Vehicles Act, 1988, the multiplier should be taken as provided for person 25 to 30 years of age is 18. Consequently, the compensation which the appellant would be entitled, is assessed as 2000 x 12 x 18 = Rs. 4,32,000/- and an amount of 1/3rd from the aforesaid amount is consequently liable to be deducted for personal expenses. Thus, the dependency of the family i.e., the appellant is assessed as Rs. 4,32,000/- minus Rs. 1,44,000/- leaving a balance of Rs. 2,88,000/- (two lac eighty eight thousand), which the appellants are held entitled to receive from the respondents as compensation in the head of loss of income/dependency. Since the Tribunal had awarded a sum of Rs. 2,40,000/- in this head, the appellant shall be entitled to receive the enhanced amount i.e., Rs. 2,88,000/- minus Rs. 2,40,000/- = Rs. 48,000/-. Consequently, this appeal is partially allowed to the extent of Rs. 48,000/-.

5. In the light of the above, the appellant would be entitled to receive the enhanced amount of Rs. 48,000/- (forty-eight thousand) from the respondents. The respondents are directed to pay or deposit the said amount within a period of three months from today or pay the same to the appellant by means of cross-cheque/demand draft. In case the said amount of Rs. 48,000/- is paid within a period of three months from today, the same shall be paid to the appellant with interest @ 6% per annum with effect from the date of filing of this appeal i.e. 15.2.1993. However in case the respondents fail to pay or deposit the said amount within a period of three months ''from today the appellant shall be entitled to receive interest on the said amount i.e., Rs. 48,000/- @ 9% per annum with effect from the date of filing of the claim petition before the learned Tribunal i.e., 16.7.1991. In the facts and circumstances of the present case, there shall be no order as to costs.