

(2012) 09 RAJ CK 0119

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 849 of 2006 and Civil Miscellaneous Appeal No. 3341 of 2009

Gokul

APPELLANT

Vs

Ratiram and Another
 RSRTC Vs Gokul and Another

RESPONDENT

Date of Decision : 26-09-2012

Acts Referred:

Citation : (2013) 2 CDR 775

Hon'ble Judges : M.C. Sharma, J

Bench : Single Bench

Advocate : Ram Sharan Sharma, for the Appellant; O.P. Sharma for the RSRTC, for the Respondent

Final Decision : Dismissed

Judgement

M.C. Sharma, J.—Since all the aforesaid two appeals arise out of the judgment and award dt. 25.4.2005 passed by MACT, Bandikui, hence the arguments have been heard together and they are being decided by this common judgment. Brief facts of the case are that on 14.9.2002 the claimant injured Gokul was coming back on a Motor Cycle bearing No. RJ-14-23M-9059 on Sariska Bharathari road. A roadways bus bearing No. RJ-14-P-5368 being driven by its driver came in high speed and in rash and negligent manner and dashed against the Motor cycle, due to which the claimant sustained injuries

2. Thereafter, First Information Report was lodged. Claim petition was filed. Notices were issued, written statement was filed, issues were framed, evidence was submitted and after hearing the arguments of both the sides, the learned Tribunal has passed the impugned award awarding Rs. 2,98,000/- in favour of claimant and against the non-claimants.

3. Being aggrieved by the aforesaid award, the claimant has filed the appeal for enhancement of compensation, while RSRTC has filed the appeal challenging the quantum of compensation.

4. Learned counsel for the claimant contended that the injured Gokul Singh was doing the job of Motor Electric and agriculture work and was earning Rs. 6000/- per month after deducting all the expenses, but the learned Tribunal has not assessed the income of the injured whereas the complete income of the injured Gokul Singh was used for the benefit and development of the house members/ family. He further canvassed that as per the affidavit of the claimant, the age of the injured Gokul Singh is 45 years. The claimant had suffered 72% permanent disability and for the said reason, he has to suffer for his whole future life. In such circumstances, the compensation awarded by the learned Tribunal is towards lower side.

5. On the other hand, learned counsel for the RSRTC contended that the factum of rash and negligent act on the part of the Bus driver has not been proved and in such circumstances, the claimant is not entitled to get any compensation from the Insurance Company. Hence, in such circumstances, the impugned award deserves to be quashed and set-aside.

6. Considering the entire facts and circumstances of the case and also the evidence emerging on record, as submitted by both the parties, I do not think it proper to interfere in the impugned award dt. 25.4.2005 passed by the learned Tribunal. Hence, both the aforesaid appeals fail and the same being bereft of any merit deserve to be dismissed, which stand dismissed accordingly. Consequent upon the dismissal of appeals, the stay application, filed herewith, does not survive and it also stands dismissed.