
(1994) 03 RAJ CK 0009

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 214 of 1985

Gujarat State Road Transport Corporation

APPELLANT

Vs

Jafar Miyan and Others

RESPONDENT

Date of Decision : 16-03-1994

Acts Referred:

Motor Vehicles Act, 1939 — Section 110A

Citation : (1994) 1 WLN 485

Hon'ble Judges : Rajesh Balia, J

Bench : Single Bench

Judgement

Rajesh Balia, J.—This appeal is against the award made by Motor Accident Claims Tribunal, Dungarpur dt; 23.5.85 passed in Motor Accident Claims Case No. 47/82(52/81).

2. On 29.7.80, Narnedra Kumar Gandhi met an accident with bus No. GRI 6861, a vehicle owned by Gujarat State Road Transport Corporation (hereinafter called Corporation). As a result of which Narnedra Kumar Gandhi died Respondent No. 2 to 6 who are respectively widow, daughter, son and mother of the deceased and were dependent on him lodged the claim for compensation u/s 110 A of the Motor Vehicles Act, 1939.

3. The Tribunal came to the conclusion that the accident took place due to negligent driving of the Jafar Miyan who was the driver of the bus owned by the Corporation at the time of accident. The age of the deceased was between 27 to 30 years, the annual income of the deceased was estimated at Rs. 29,000/- of which the estimated expenditure on deceased was held to be 10,000/- rupee per annum, Rs. 19,000/- were held to be spent on his dependents and on this promise by taking in to consideration the age of parents of the deceased, the tribunal applied multiplier of 25 and awarded after taking into consideration the medical expenses, damages for pain and anxiety and for loss of consortium a total Rs. 4,82,200/- alongwith interest @ 9% per annum on the sum with effect from the filling of the application.

4. In the appeal, the basic findings have not been disputed. Only contention of learned Counsel for the appellant is that the Tribunal has erred in adopting multiplier of 25 in arriving at the compensation payable to the claimants and has also not taken into consideration that payment is made in lumpsum which provides a regular income for which reasonable deduction ought to have been given. The compensation ought not to be more than what could yield income of equal to amount of dependency by adopting appropriate multiplier. The tribunal has not taken into consideration these facts, the submission of learned Counsel for the appellant was that taking into consideration the age of the deceased and amount of dependency on the identical multiplier ought to be 15 and not 25.

5. The claimants have also filed cross objections by making a claim for interest at the enhanced rate of 15% per annum as against 9% awarded.

6. Learned Counsel for the respondents also supported the amount of compensation determined by the tribunal by applying multiplier 25.

7. I have carefully considered the rival contentions. It is now well settled that the appropriate method of assessment of compensation in the case of accident is the method of capitalisation of the amount of dependency by choosing a multiplier appropriate of the age of the deceased or the age of the dependence whichever is lower. It is also established method that in choosing multiplier the relevant factor to be taken into consideration is that the compensation is awarded in lumpsum. Such lump sum award results in regular yield to the dependents law of compensation is to mitigate the hardship and to make up loss and not to ameliorate the condition of the dependents more than what they were before the accident. It is also a relevant factor while considering the question of making deduction in applying the method of capitalising the dependency, the time actually taken or likely to take in prosecuting the remedy before the compensation actually reaches the hands of dependents. It cannot be fixed in a strait jacket formula with reference to age of the deceased at the time of death and expected age alone. It must not be lost sight of that in ultimate analysis the method of capitalisation is also a rough and ready measure of aggregating the total expected income for the remainder of life expectancy with appropriate deduction towards the uncertainty of life and for lump sum payment is also to be resorted.

8. In *Hardeo Kaur and others Vs. Rajasthan State Transport Corporation and another*, the deceased was an army officer of 36 years in age by taking the estimated life expectancy of 60 years. The court adopted the multiplier of 24 without making any deduction of lumpsum payment. The Court had taken into consideration that an accident has taken place in 1987 and it has taken almost fifteen years for final disposal of the case and such deduction was not justified. The Court held as under:

We are of the view that deduction of 3rd out of the assessed compensation on

account of lump sum payment is not justified. The accident took place in July, 1977 and the litigation has come to an end, hopefully, today, 15 years thereafter. This Court in *Motor Owners' Insurance Company Limited Vs. Jadavji Keshavji Modi and Others*, held that the delay in the final disposal of motor accident compensation cases, as in all other classes of litigation, takes a sting out of the laws of compensation and added to that the monstrous inflation and the consequent fall in the value of rupee makes the compensation demanded years ago less than quarter of its value when it is received after such a long time. In *Smt. Manjushri Raha and Others Vs. B.L. Gupta and Others*, this Court awarded compensation by multiplying the life expectancy without making any deductions. With the value of rupee dwindling due to high rate of inflation, there is no justification for making deduction due to lump sum payment we, therefore, hold that the courts below were not justified in making lump sum deduction in this case.

9. In I (1993) ACC 345 (SC) the deceased was 26 years of age at the time of accident keeping in view the age of the father who was 70 years of age, the compensation was enhanced by adopting multiplier of 24 years instead of 17 years applied by the tribunal. In this case also as final disposal has taken after 15 years no deduction on account of lump sum payment was on enhanced compensation was allowed.

10. Learned Counsel for the appellant has placed reliance on AIR 1993 S.C. 1295 in support of the plea that in the case of deceased who was 26 years old a multiplier of 15 is appropriate multiplier. The facts of aforesaid decision would show that the Supreme Court was not laying down any principle relating to the multiplier to be adopted. It was the case in which the Tribunal has awarded the compensation of Rs. 72,000/- by capitalising of dependency amount of Rs. 3600/- at 20 years purchase value. The High Court enhanced the said sum from 72,000/- to 1,50,000/-. In arriving at this sum the High Court has not adopted the method or capitalisation of dependency. The Supreme Court did not approve the rough and ready method of aggregating the total income of the remainder of life expectancy with the appropriate deduction towards on certainties of life and for lump sum payment. However the enhanced compensation was justified by assuming certain facts, keeping in view that it was a hard case where a young man, the only bread-winner of the family was snuffed out in its prime. It is for the purpose of justifying the amount awarded by the High Court in an appeal has been preferred by the Insurance Company that the Supreme Court adopted assumed figures. The decision cannot be read as laying down a principle that in all cases a multiplier of 15 for capitalising the dependency is to be adopted, in the case of death of 26 years young man. The principle in this case which has been annunciated reads as under:

The appropriate method of assessment of compensation is the method of capitalisation of net income choosing a multiplier appropriate to the age of the deceased or the age of the dependents whichever multiplier is lower. I is, no

doubt, true that as a rough and ready measure, the method of aggregating the total expected income for the remainder of the life expectancy with appropriate deductions towards uncertainties of life and for lump sum payments is also resorted to. But this method is now considered unscientific and is virtually absolute.

11. Keeping in view the aforesaid if the facts of the present case are viewed, am not inclined to interfere with award of the tribunal based on capitalisation of dependency at 25 years. The accident had taken place in 1980. The award was passed in 1985. The recovery of award was stayed on deposit of Rs. 2,00,000/- until decision of this appeal. The deceased was found to be only 27 years of age at the time of accident. Life expectancy was estimated to be 60 years. The amount of dependency was fixed at Rs. 19,000/- per annum. The multiplier for capitalisation without any deduction comes to 32 1/2 years. At the time of accident the deceased had two minor children of 2 years and years respectively in age and widow had lost consortium and mother was the age of 55 years while both the children had at least about 20 years of dependency at that time, dependency of widow was to be continued till life. The amount of award for loss of consortium was Rs. 16,000/- also appears to be too meagre. The final decision has taken almost 14 years. Thus keeping in view the aforesaid circumstances, the multiplier adopted by the Tribunal at the 25 years on purchase value of the dependency cannot be said to be excessive.

12. This appeal, therefore, has no force and the same is hereby dismissed.

13. Coming to the cross objection I find that the tribunal has sought to follow the decision of this Court in 1985 ACC 322 for awarding interest. The tribunal has noticed- that this Court awarded 12% interest on the amount of compensation with effect from the application. For unexplicable reasons, the tribunal has chosen to award interest at the rate of 9% only. In this connection learned Counsel for the claimants-respondents has invited my attention to Jagbir Singh and Others Vs. General Manager Punjab Roadways and Others, . In that case tribunal has awarded interest of 6%. On appeal High Court has reduced the amount of compensation and confirmed the award in respect of interest. The Supreme Court while restoring the award of the tribunal in respect of compensation held that petitioner is entitled of higher rate of interest than that of 6% awarded by tribunal and confirmed by the High Court and enhanced the interest from 6% to 12% per annum from the date of application for compensation to the date of realisation. In Hardev Gaur's case also the Court found that the award of interest by the tribunal at the rate of 6% was lower and held that the interest be awarded at the rate of 12% instead of 6% by the tribunal from the date of the application till the date, of realisation. In Preran's Case (supra) also the Supreme Court awarded interest at the rate of 12%. The Supreme Court directed the Insurance Company to pay interest at the rate of 12%. Thus it is the consistent practice to award interest at the rate of 12% on the amount of compensation finally determined with effect from the date of

application to the realisation.

14. Accordingly the cross objection is partly accepted and awarded is modified to the extent that the claimants shall be entitled to get interest at the rate of 12% per annum on the amount of compensation instead of 9% as awarded by the tribunal until realisation of the amount. Appeal and cross examination stand accordingly disposed off. No order as to costs.