
(2013) 07 RAJ CK 0242

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 2228/13

ICICI Lombard General Insurance Co. Ltd.

APPELLANT

Vs

Bhoja Singh and Others

RESPONDENT

Date of Decision : 24-07-2013

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2013) 07 RAJ CK 0242

Hon'ble Judges : Bela M. Trivedi, J

Bench : Single Bench

Advocate : Kapil Gupta, for the Appellant;

Final Decision : Dismissed

Judgement

Bela M. Trivedi, J.—The present appeal has been filed by the appellant Insurance Company u/s 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the said Act") against the judgment and award dated 12.4.13 passed by the Motor Accident Claims Tribunal, Beawar, District Ajmer (hereinafter referred to as "the Tribunal") in Claim Case No. 115/12 (280/11), whereby the Tribunal has allowed the claim petition and awarded the claim of Rs. 6,90,200/- by way of compensation for the death of the deceased Raju Singh. It appears that the respondent Nos. 1 to 5-claimants filed the claim petition claiming the compensation for the death of Raju Singh, who happened to be the son of respondent Nos. 1 and 2, husband of respondent No. 3 and father of respondent Nos. 4 and 5. According to the respondents-claimants the said Raju Singh on 2.11.10 was walking on the road alongwith his bicycle and he was hit by one Trola container bearing Registration No. MH-06-AQ-1157 driven by the respondent No. 6, as a result of the accident, the said Raju Singh sustained injuries and succumbed to the injuries. The Tribunal after considering the evidence on record awarded a sum of Rs. 6,90,200/- with interest @ 6% per annum from the date of petition till realisation, holding the respondent Nos. 6, 7 and the present appellant, with whom the offending Trola was insured, liable for

the compensation. Being aggrieved by the said award, the present appeal has been filed by the appellant-Insurance Company.

2. It has been submitted by the learned Mr. Kapil Gupta counsel for the appellant that the Tribunal has awarded exorbitant compensation under the head of loss of dependency, though the respondents-claimants had failed to produce any cogent evidence as regards the income of the deceased. He also submitted that the Tribunal has wrongly awarded 30% increase by way of loss future prospects, contrary to the decision of the Apex Court in case of Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another,

3. Having regard to the submissions made by the learned counsel for the appellant and to the impugned award passed by the Tribunal, it appears that the Tribunal considering the income of the deceased at Rs. 4,000/- per month has further considered 30% increase and taken the income as Rs. 5,200/- per month for the purpose of ascertaining the dependency loss. The Tribunal has further applied multiplier of 14 in view of the decision of the Apex Court in case of Sarla Verma (supra) and further deducting 1/4th from the said amount towards the personal expenses of the deceased, has awarded Rs. 6,55,200/- under the head of loss of dependency head. The Tribunal has further awarded Rs. 35,000/- towards the loss of consortium and funeral expenses etc. It is true that the respondents-claimants had failed to produce the cogent evidence as regards the income of the deceased at the time of the accident, however, the Tribunal has believed the income of the deceased as Rs. 4,000/- per month instead of Rs. 6,000/- per month, as sought to be claimed by the claimants. The Tribunal thereafter has considered the future prospects of the deceased in view of the decision of the Apex Court in case of Santosh Devi Vs. National Insurance Company Ltd. and Others, The multiplier applied by the Tribunal is also in accordance with the decision of the Apex Court in Sarla Verma (supra). Under the circumstances, the compensation awarded by the Tribunal appears to be just and proper and could not be said to be on higher side. In that view of the matter, the court does not find any substance in the present appeal. In view of the above, the appeal is dismissed.