
(2012) 11 RAJ CK 0071

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 313 of 2010

ICICI Lombard Insurance Co. Ltd.

APPELLANT

Vs

Smt. Makku Devi and Others

RESPONDENT

Date of Decision : 02-11-2012

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2013) 2 WLN 288

Hon'ble Judges : Nirmaljit Kaur, J

Bench : Single Bench

Advocate : Santosh Choudhary, for the Appellant; Rishi Chouhan, for the Respondent

Final Decision : Dismissed

Judgement

Nirmaljit Kaur, J.—This is an appeal under Sec. 173 of the Motor Vehicles Act, 1988 against the judgment and award dt. 16.12.2009 passed by Motor Accident Claims Tribunal (First), Jodhpur in M.A.C. Case No. 201/2008, whereby the Tribunal has awarded total compensation of Rs. 5,10,000/- to the respondent-claimants. The short facts are that the deceased was 18 years of age. He was bachelor at the time of accident. The accident took place in the year 2007. The only claimant is his mother. She is a widow. While granting compensation, the Tribunal applied the multiplier of 18 and held the income of the deceased as Rs. 4500/- per month. The total amount granted under various heads was Rs. 5,10,000/-.

2. While praying for reducing the quantum of compensation, learned counsel for the appellant submitted twofold arguments. The first argument raised by learned counsel for the appellant is that the age of the deceased being 18 years and a bachelor, the age of the claimant-mother should have been taken into consideration while applying the relevant multiplier. Reliance was placed on the judgments rendered by Hon'ble the Apex Court in the cases of (1). National Insurance Company Ltd. Vs. Shyam Singh and Others, ; (2) Lata Wadhwa & Ors.

vs. State of Bihar & Ors. [Writ Petition (civil) 232 of 1991]; (3) General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others, ; (4) New India Assurance Company Ltd. Vs. Smt. Shanti Pathak and Others, ; (5) Ramesh Singh and Another Vs. Satbir Singh and Another, ; (6) Shakti Devi Vs. New India Insurance Co. Ltd. and Another, ; and (7) Maharashtra State Road Transport Corpn. Vs. Lalnipuii, .

3. The second argument raised is that the deceased was not earning. Thus, the monthly income assessed by the Tribunal as Rs. 4500/- is on the higher side.

4. While opposing the present appeal, learned counsel for the respondent relied on the judgment rendered by Hon''ble the Apex Court in the case of Amrit Bhanu Shali and Others Vs. National Insurance Co. Ltd. and Others, , wherein it has been held that the age of the dependent has no nexus with computation of compensation and the selection of multiplier is based on the age of the deceased and not on the basis of the dependent. It is further argued that the income of the deceased was assessed on the basis of daily wages amounting to Rs. 150/- per day and therefore, it cannot be said to be on higher side.

5. Heard.

6. The facts of the case are not disputed. There is no dispute with the well settled proposition of law as settled by the various judgments of Hon''ble Apex Court rendered in National Insurance Co. Ltd. vs. Shyam Singh & Ors. (supra), Lata Wadhwa & Ors. vs. State of Bihar & Ors. (supra), General Manager, Kerala S.R.T.C. vs. Susamma Thomas (supra), New India Assurance Co. Ltd. vs. Shanti Pathak & Ors. (supra), Ramesh Singh & Anr. vs. Satbir Singh & Anr. (supra), Shakti Devi vs. New India Insurance Co. Ltd. & Anr. (supra) and Maharashtra State Road Transport Corporation vs. Lalnipuii (supra). However, Hon''ble the Apex Court in the case of Amrit Bhanu Shali & Ors. vs. National Insurance Co. Ltd. & Ors. (supra) took a contrary view and held that selection of multiplier is based on the age of the deceased and not on the basis of the age of the dependent. Learned counsel for the appellant, however, while referring to the judgments above submitted that the judgment of Hon''ble the Apex Court rendered in the case of Lata Wadhwa & Ors. vs. State of Bihar & Ors. (supra) is a judgment delivered by a Bench of three Judges. Similarly the judgment rendered in the case of New India Assurance Co. Ltd. vs. Shanti Pathak & Ors. (supra), too, is a judgment rendered by Bench of three judges. In these judgments, it has been specifically held that the choice of the multiplier is determined by the age of the deceased or that of the claimants, whichever is higher. As such, the observations as made in these judgments, which are of a larger Bench should be followed. In any case, in all these judgments, certain guidelines have been suggested. Still, the liberty has been granted to depart from the usual method of multiplier in certain rare cases.

7. Para 16 of the judgment rendered by Hon''ble Apex Court in the case of General Manager, Kerala S.R.T.C. vs. Susamma Thomas (supra) reads as under:-

16. It is necessary to reiterate that the multiplier method is logically sound and legally well established. There are some cases which have proceeded to determine the compensation on the basis of aggregating the entire future earnings for over the period the life expectancy was lost, deducted a percentage therefrom towards uncertainties of future life and award the resulting sum as compensation. This is clearly unscientific. For instance, if the deceased was, say 25 years of age at the time of death and the life expectancy is 70 years, this method would multiply the loss of dependency for 45 years virtually adopting a multiplier of 45 and even if one-third or one-fourth is deducted therefrom towards the uncertainties of future life and for immediate lump sum payment, the effective multiplier would be between 30 and 34. This is wholly impermissible. We are, aware that some decisions of the High Courts and of this Court as well have arrived at compensation on some such basis. These decisions cannot be said to have laid down a settled principle. They are merely instances of particular awards in individual cases. The proper method of computation is the multiplier, method. Any departure, except in exceptional and extraordinary cases, would introduce inconsistency of principle, lack of uniformity and an element of unpredictability for the assessment of compensation. Some judgments of the High Courts have justified a departure from the multiplier method on the ground that Section 110-B of the Motor Vehicles Act, 1939 insofar as it envisages the compensation to be "just", the statutory determination of a "just" compensation would unshackle the exercise from any rigid formula. It must be borne in mind that the multiplier method is the accepted method of ensuring a "just" compensation which will make for uniformity and certainty of the awards. We disapprove these decisions of the High Courts which have taken a contrary view. We indicate that the multiplier method is the appropriate method, a departure from which can only be justified in rare and extraordinary circumstances and very exceptional cases.

8. While applying the same in the facts of the present case, this Court does not deem it proper to set aside the multiplier of 18. The claimant here is a widow. The deceased was her only son. He died at the age of 18 years. He was her only source of comfort, support and dependency in her old age. Even, her own age is only 40 years. She has number of lonely years ahead of her and without any support. In such circumstances, the present case falls in one of the rare cases where this Court does not deem it proper to interfere with the multiplier of 18 as applied by the Tribunal.

9. The second argument that the amount of Rs. 4500/- as monthly income is on the higher side, too, has no merit. The deceased was 18 years of age at the time of accident and would have soon started earning. His earning capacity cannot be said to be less than Rs. 150/- per day. Even otherwise, a deduction of 50% towards personal expenses had been made. Thus, dependency assessed by the Tribunal is only Rs. 2250/-, which hardly comes to Rs. 75/- per day. In view of the above, this Court does not deem it proper to interfere in the order of the Tribunal. The civil misc. appeal is, accordingly, dismissed being devoid of merits.