

(2012) 03 RAJ CK 0053

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 504 of 2012

Jagdish and Others

APPELLANT

Vs

Kamlesh Meena and Others

RESPONDENT

Date of Decision : 22-03-2012

Acts Referred:

Citation : (2012) 03 RAJ CK 0053

Hon'ble Judges : Mahesh Bhagwati, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mahesh Bhagwati

1. Challenge in this appeal is to the judgment and award dated 2nd November, 2011, whereby the Motor Accident Claims Tribunal, Jaipur District, Jaipur, decreed an amount of Rs. 2,52,000/- in favour of the appellants and against the respondents. Dissatisfied with the impugned award, the appellants have beseeched to enhance the quantum of compensation. Adumbrated in brief, the facts of the case are that on 21st September, 2008, the deceased Mukesh with his friend Jagdish Meena was going on motor-cycle bearing Registration No. RJ-14-SS-3602 and the deceased Rati Ram was going on his own motor-cycle No. RJ-14- SM-2253 from Chaksu to Shivdaspura. No sooner did they reach near Oswal Gas Agency, at about 5:45 p.m., one dumper Truck bearing Registration No. RJ-26-GA-0775, being driven by its driver rashly and negligently, suddenly emerged at a fast speed and hit both the motor-cycles, resulting into the death of Jagdish Meena, Rati Ram and Mukesh on the spot. The appellants-claimants filed the claim petition before the learned Tribunal and the Tribunal, after completion of trial of the claim petition decreed an amount of Rs. 2,52,000/- in favour of the appellantsclaimants and against the respondents.

2. Heard the learned counsel for the appellant and carefully perused the relevant material on record including the impugned award.

3. Learned counsel for the appellants has focused his arguments only on one ground and canvased that the learned Tribunal had grossly erred to consider only Rs. 15,000/- to be the annual income of the deceased, whereas there was sufficient evidence available on record to prove that the deceased was working as Halwai and earning Rs. 5,000/- per month. Learned counsel implored that keeping in view Rs. 5,000/- to be the monthly income of the deceased, the quantum of compensation may be recomputed and enhanced in the light of the judgment of the Hon''ble Apex Court rendered in the case of Laxmi Devi & Ors. versus Mohammad Tabbar & Anr. reported in 2008 R.A.R. 193 (SC), in support thereof.

4. Having heard the learned counsel for the appellant and carefully perused the relevant material on record, it is noticed that the deceased Mukesh was 17 years of age at the time of accident and he was a buttlor. On account of there being no cogent evidence with regard to the income of the deceased, the learned Tribunal considered Rs. 15,000/- to be the notional annual income and having applied the multiplier of 16 and further considered all the facts and circumstances of the case as also the entire evidence on record, passed a reasonable compensation of Rs. 2,52,000/- in favour of the claimants-appellants, which is found to be just and proper in the facts and circumstances of the case. The impugned award is well merited, based on cogent finding, with which I fully concur and I do not find any ground to make any interference therein. The judgment cited by the learned counsel for the appellants, in the facts and circumstances of the case, does not render any assistance to the appellants and hence, the appeal deserves to be dismissed at the threshold. For the reasons stated above, the appeal fails and the same being bereft of any merit stands dismissed in limine.