(2010) 01 CHH CK 0010

In the Chhattisgarh High Court

Case No : M.A. No. 654 of 2002

Kausalya Bai and Others APPELLANT

Vs

Pratap Singh Sagar and Others RESPONDENT

Date of Decision : 05-01-2010

Acts Referred:
Motor Vehicles Act, 1988 — Section 166

Citation : (2010) 2 MPJR 85

Hon'ble Judges : Rajeev Gupta, C.J;Rangnath Chandrakar, J

Bench : Full Bench

Judgement

Rajeev Gupta, C.J.

This is claimants appeal for enhancement of the compensation awarded by the Seventh Additional Motor Accident Claims Tribunal, Raipur (for short the Tribunal'') vide award dated 18.04.2002 passed in Claim Case No. 32/2000.

The appellants/claimants, unfortunate widow, children and parents of deceased Rajkumar @ Kumar claimed compensation of Rs. 28,00,000/-, by filing a claim petition u/s 166 of the Motor Vehicles Act, for his death in the motor accident on 29.05.2000, when the jeep in which he was traveling met with an accident due to rash and negligent driving of its driver, resulting in multiple serious injuries to Rajkumar @ Kumar, who succumbed to those injuries. The claimants further pleaded that deceased Rajkumar @ Kumar used to earn Rs. 5,000/- per month as tailor.

The owner, driver and insurer of the offending vehicle jeep contested the claim and denied their liability to pay compensation to the claimants. The insurer of the jeep took the further plea that the driver of the jeep was not holding a valid driving license and the jeep was being plied in breach of the policy conditions.

The claimants examined AW/1 Smt. Kaussalya Bai and AW/2 Shankarlal in support of their claim. In rebuttal, the driver of the jeep examined himself as NAW/1.

The Tribunal on a close scrutiny of the evidence led before it held that deceased Rajkumar @ Kumar died on account of the injuries sustained by him in the motor accident on 29.05.2000; the accident occurred due to rash and negligent driving of the driver of the offending vehicle jeep; as the offending vehicle jeep on the date of the accident was insured with the National Insurance Company Limited, the Insurance Company was liable to pay compensation to the claimants.

The Tribunal assessed the income of the deceased at Rs. 3,000/- per month and Rs. 36,000/- per annum. By deducting Rs. 1,500/- per month towards the personal expenses of the deceased, the claimants'' dependency was assessed at Rs. 18,000/- per annum. By multiplying the annual dependency of Rs. 18,000/- with the multiplier of 15, the compensation was worked out to Rs. 2,70,000/-. By awarding further sum of Rs. 5,000/- towards loss of consortium to the widow and Rs. 2,000/- towards funeral expenses, the Tribunal awarded a total sum of Rs. 2,77,000/- as compensation to the claimants for the death of deceased Rajkumar @ Kumar. The Tribunal further directed payment of interest on the above compensation of Rs. 2,77,000/- @ 7% per annum from the date of the filing of the claim petition till the date of actual payment.

Shri Aditya Khare, learned counsel for the appellants submitted that the Tribunal has erred in not accepting the claimants'' evidence about the income of the deceased and in assessing his income at Rs. 3,000/- per month only; in deducting 50% of the income of the deceased towards his personal expenses; and in awarding low compensation of Rs. 2,77,000/- only.

Shri Gautam Khetrapal, learned counsel for the respondent No. 3, The National Insurance Company Limited, on the other hand supported the award and contended that as the claimants could not establish the income of the deceased as pleaded by them, the compensation of Rs. 2,77,000/- awarded by the Tribunal is just and proper compensation in the facts and circumstances of the present case.

As the respondents have not filed any appeal against the award, the findings recorded by the Tribunal that deceased Rajkumar @ Kumar died on account of the injuries sustained by him in the motor accident; the accident occurred due to rash and negligent driving of the driver of the offending vehicle jeep; and the insurer of the offending vehicle jeep was liable to pay compensation to the claimants have now attained finality. That apart, these findings are not under challenge before us in this appeal. We therefore, affirm the above findings recorded by the Tribunal.

In a motor accident claim case what is important is that the compensation to be awarded by the Courts/Tribunals should be just and proper compensation in the facts and circumstances of the case. It should neither be a meager amount of compensation, nor a bonanza.

Now, we shall examine as to whether the compensation of Rs. 2,77,000/- awarded by the Tribunal is just and proper compensation in the facts and circumstances of the present case.

True, the claimants pleaded that deceased Rajkumar @ Kumar used to earn Rs. 5,000/- per month as tailor, but the evidence led in that behalf was not of clinching nature. In this state of evidence, the Tribunal was left with no other option, but to asses the income of the deceased in its own estimate.

On due consideration we do not find any infirmity in the assessment of the income of the deceased at Rs. 3,000/- per month and Rs. 36,000/- per annum.

The Tribunal has fallen into error in deducting further sum of Rs. 500/- towards other expenses of the deceased after deducting 1/3rd of Rs. 36,000/- towards his personal expenses. We, therefore, propose to re-compute the compensation taking the dependency of the claimants at Rs. 24,000/- per annum after deducting 1/3rd of Rs. 36,000/- towards the personal expenses of the deceased.

The multiplier of 15 selected by the Tribunal considering that deceased Rajkumar @ Kumar was aged about 30 years on the date of accident and his widow Kaussalya Bai was shown to be 28 years of age cannot be found fault with.

By multiplying the annual dependency of Rs. 24,000/- with the multiplier of 15, the compensation works out to Rs. 3,60,000/-. The claimants are further entitled to get Rs. 5,000/- towards funeral expenses; Rs. 5,000/-for loss of estate; and Rs. 5,000 for loss of consortium to the widow. The claimants, thus, become entitled to receive a total sum of Rs. 3,75,000/- as compensation for the death of deceased Rajkumar @ Kumar in the motor accident.

Learned counsel for the parties submitted that with a view to avoid any possible dispute between the parties about the period for which the claimants are entitled to receive interest on the enhanced amount of compensation, the amount of interest on the enhanced amount of compensation may be quantified in this appeal itself.

Considering all the relevant factors including the delay in disposal of the claim petition and the present appeal, and the fact that the Insurance Company alone is not to be blamed of the entire delay in the matter, we quantify the amount of interest on the enhanced amount of compensation of Rs. 98,000/-at 7,000/-.

For the foregoing reasons, the appeal filed by the claimants for enhancement of the compensation is allowed in part. The compensation of Rs. 2,77,000/- awarded by the Tribunal is enhanced to Rs. 3,75,000/- with further quantified amount of interest of Rs. 7,000/- on the enhanced amount of compensation of Rs. 98,000/-.

Respondent No. 3 The National Insurance Company Limited is granted three months'' time for depositing the total sum of Rs. 1,05,000/- (Rs. 98,000/- toward enhanced amount of compensation + Rs. 7,000/- towards quantified amount of interest on the enhanced amount of compensation) before the concerning Claims Tribunal.

No order as to costs.

