
(2010) 12 CHH CK 0018
In the Chhattisgarh High Court
Case No : M.A. No. 122 of 2003

Lalita Sahu (Smt.) and Others

APPELLANT

Vs

Jiwan Nath and Others

RESPONDENT

Date of Decision : 10-12-2010

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2010) 12 CHH CK 0018

Hon'ble Judges : Rajeev Gupta, C.J.; Sunil Kumar Sinha, J

Bench : Full Bench

Final Decision : Allowed

Judgement

Rajeev Gupta, C.J.—This is claimants' appeal for enhancement of the compensation awarded by the First Additional Motor Accident Claims Tribunal, Raipur (for short the Tribunal") vide award dated 08.10.2002, passed in Claim Case No.14/2001.

2. As against the compensation of 19,80,000/- claimed by the appellants/claimants, unfortunate widow, minor daughter and mother of deceased Jitendra Kumar Sahu, by filing a claim petition u/s 166 of the Motor Vehicles Act, for his death in the motor accident on 06.01.2001, the Tribunal awarded a total sum of Rs. 1,75,000/- as compensation along with interest 6% per annum from the date of filing of the claim petition till the date of actual payment.

3. The Tribunal on a close scrutiny of the entire evidence led before it held that deceased Jitendra Kumar Sahu died on account of the injuries sustained by him in the motor accident on 06.01.2001; the accident occurred due to rash and negligent driving of the driver of the offending vehicle Jeep bearing registration No.MP-23G/1582; as the above offending vehicle Jeep on the date of the accident was insured with the Oriental Insurance Company Limited and the Insurance Company could not establish any breach of the policy conditions, the Insurance Company was liable to pay compensation of the claimants.

4. As the respondents have not filed any appeal against the award, the above findings recorded by the Tribunal have now attained finality.

5. The Tribunal assessed the income of the deceased at Rs. 1,750/- per month and Rs. 21,000/- per annum. By deducting 1/3rd of Rs.21,000/- towards the personal expenses of the deceased, the claimants dependency was assessed at Rs.14,000/- per annum. By multiplying the annual dependency of Rs.14,000/- with the multiplier of 12, the compensation was worked out to Rs.1,68,000/-. By awarding further sum of Rs.7,000/- under other heads the Tribunal awarded a total sum of Rs.1,75,000/- as compensation to the claimants for the death of deceased Jitendra Kumar Sahu in the motor accident. The Tribunal further directed payment of interest on the above amount of compensation of Rs.1,75,000/- @ 6% per annum from the date of filing of the claim petition till the date of actual payment.

6. Shri H.S. Patel, learned counsel for the appellants submitted that the Tribunal has erred in not accepting the claimants' evidence about the income of the deceased, in assessing his income at Rs.1,750/- per month and Rs.21,000/- per annum only; in selecting the lower multiplier of 12; and in awarding low compensation of Rs.1,75,000/- only.

7. Shri Raj Awasthi, learned counsel for respondent No.3 the Oriental Insurance Company Limited, on the other hand supported the award and contended that the compensation of Rs. 1,75,000/- awarded by the Tribunal is just and proper compensation in the facts and circumstances of the present case.

8. 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.

9. Now, we shall examine as to whether the compensation of Rs.1,75,000/- awarded by the Tribunal is just and proper compensation in the facts and circumstances of the present case.

10. True, the claimants pleaded that deceased Jitendra Kumar Sahu used to earn Rs.15,000/- per month by running a Hotel; by plying a Taxi; and from agriculture, the evidence led in that behalf was not of clinching nature. No licence for running a Hotel was produced before the Tribunal. Similarly, no documentary evidence was produced before the Tribunal to establish that the deceased was the owner of any Taxi at all. In this state of evidence, we do not find any fault in the approach of the Tribunal in discarding the claimants' evidence about the income of the deceased and in assessing his income at Rs.1,750/- per month and Rs.21,000/- per annum.

11. The claimants' dependency also has been rightly assessed by the Tribunal at Rs.14,000/- per annum by deducting the usual 1/3rd of Rs.21,000/- towards the personal expenses of the deceased.

12. Nevertheless, the multiplier of 12 selected by the Tribunal is certainly on the lower side. Considering that deceased Jitendra Kumar Sahu was aged about 35 years on the date of the accident and his widow Smt. Lalita Sahu was shown to be 22 years of age, we are of the opinion that multiplier of 16 would be appropriate in the present case in view of the recent dictum of the Apex Court in the case of Sarla Verma (Smt) and others Versus Delhi Transport Corporation and another reported in (2009) 6 Supreme Court Cases 121, wherein multiplier of 16 has been prescribed for the age group between 31-35 years.

13. By multiplying the annual dependency of Rs. 14,000/- with the multiplier of 16, the compensation works out to Rs. 2,24,000/-. The claimants are further entitled to receive Rs.5,000/- towards funeral expenses; Rs.5,000/- for loss of consortium to the widow and Rs.5,000/- for loss of estate. The claimants, thus, become entitled to receive a total sum of Rs. 2,39,000/- as compensation for the death of deceased Jitendra Kumar Sahu in the motor accident.

14. 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.

15. Considering all the relevant aspects of the matter 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 for the entire delay in the matter, we quantify the amount of interest on the enhanced amount of compensation of Rs. 64,000/- at Rs.6,000/-.

16. For the foregoing reasons, the appeal filed by the appellants/ claimants for enhancement of the compensation is allowed in part. The compensation of Rs. 1,75,000/- awarded by the Tribunal is enhanced to Rs. 2,39,000/- with further quantified amount of interest of Rs.6,000/- on the enhanced amount of compensation of Rs. 64,000/-.

17. Respondent No.3 the Oriental Insurance Company Limited is granted three month time for depositing the total sum of Rs.70,000/- (Rs.64,000/-towards enhanced amount of compensation + Rs.6,000/- towards quantified amount of interest on the enhanced amount of compensation of Rs. 64,000/- before the concerning Claims Tribunal.

18. No order as to costs.