(2016) 01 TP CK 0033

In the Tripura High Court

Case No : MAC App. No. 96 of 2012

Mahintra Tripura APPELLANT

Vs

Union of India RESPONDENT

Date of Decision : 04-01-2016

Acts Referred:
Motor Vehicles Act, 1988 — Section 168

Citation : (2016) AAC 811 : (2016) 2 TAC 228

Hon'ble Judges : Deepak Gupta, C.J.

Bench : Single Bench

Advocate : I. Chakraborty, Advocate, for the Appellant; A. Roy Barman, C.G.C. and L. Sarkar, Advocate, for the Respondent

Final Decision : Allowed

Judgement

Deepak Gupta, C.J. (Oral) - This appeal for enhancement of compensation is directed against the award dated 16-06-2012 passed by the learned Motor Accident Claims Tribunal, Court No. 3, West Tripura, Agartala in case No. T.S. (MAC) 05 of 2010 whereby the learned Tribunal awarded a sum of Rs. 2,66,000/- as compensation to the claimant-father.

2. The undisputed facts are that the deceased Harijoy Tripura was travelling in a Gypsy vehicle belonging to the Assam Rifles which met with an accident. As a result of the injury sustained in the accident, the deceased died. The claimant is the father of the deceased. In the claim petition, he alleged that the deceased was working as a informer for the Assam Rifles and that he was earning Rs. 8,000/- per month. The claimant-father has two other children who are younger to the deceased. The claimant could not produce any documentary evidence with regard to the income of his son.

3. It is not disputed that the mother of the deceased, i.e. wife of the claimant had already expired. The other brothers who are obviously majors were never made co-petitioners and the claim petition has been filed only on behalf of the

father. The learned Tribunal assessed the income of the deceased at Rs. 4,000/- per month. At the relevant time, the father was aged about 52 years. Even in the year 2009, a labourer would have earned about Rs. 100/- per day or not less than Rs. 3,000/- per month and if 50% is added to this amount on account of future prospects, the income would come to about Rs. 4,500/- per month. Normally, when 50% is deducted, the multiplier is applied by taking into consideration the age of the deceased and not the parent. However, in this case the parent is the father and not the mother. He was not totally dependent on the deceased since the father also was a daily labourer. He also has two other sons and, therefore, even in future he would have two other persons to support him. Therefore, I deduct 50% for the personal expenses of the deceased and the loss to the father is assessed at Rs. 2,250/- per month or Rs. 27,000/- per annum. Multiplier of 11 is reasonable as applied and the compensation works out to Rs. 2,97,000/-. In addition thereto, the father is held entitled to Rs. 50,000/- for loss of his son and Rs. 13,000/- as funeral expenses.

Therefore, the total compensation is assessed at Rs. (2,97,000 + 50,000 + 13,000) = Rs. 3,60,000/- (rupees three lakh sixty thousand).

4. In view of the above discussion, the appeal is allowed. The award of the learned Tribunal is modified and the compensation is enhanced from Rs. 2,66,000/- to Rs. 3,60,000/-, i.e. by Rs. 94,000/-. On the enhanced amount of compensation, the claimant shall also be entitled to interest @ 9% per annum from the date of filing of the claim petition, i.e. 02.01.2010 till payment/ deposit of the amount. Since the respondents have already satisfied the award of the Tribunal, they are directed to deposit the enhanced amount of compensation along with interest in the Registry of this Court within 8(eight) weeks from today after deducting/adjusting the amount, if any, already paid/deposited by them along with proof of such earlier deposit.

5. The appeal is disposed of in the aforesaid terms.

6. Send down the lower court records forthwith.

