
(2009) 03 RAJ CK 0014
In the Rajasthan High Court

Munni Devi (Smt.) and Others

APPELLANT

Vs

Jaipur Vidyut Vitran Nigam Ltd. and Others

RESPONDENT

Date of Decision : 13-03-2009

Acts Referred:

Motor Vehicles Act, 1988 — Section 163A

Citation : (2009) 3 WLN 184

Hon'ble Judges : Narendra Kumar Jain, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Narendra Kumar Jain, J.—Admit.

2. On the request of learned Counsel for both the parties, the final arguments were heard in the appeal and the same is being disposed of.

3. The only point involved in the present appeal is about the application of proper multiplier for the purpose of awarding compensation in respect of death of Maniram, aged about 45 years. So far as point relating to death of deceased Maniram because of negligence on the part of defendant-respondents is concerned, the same is not in dispute as the present appeal has been preferred for the enhancement of the amount of compensation, therefore, whole facts are not necessary to be discussed herein. The age of the deceased is also not in dispute. As per the finding of the trial Court, the Maniram was 45 years of age.

4. The only submission of learned Counsel for the appellant is that although this is a case of fatal accident but learned trial Court has applied the multiplier of 10 only, whereas as per second schedule appended to Section 163A of the Motor Vehicles Act, 1988, the multiplier of 15 should have been applied, therefore, the amount of compensation may be enhanced accordingly. He also submits that learned trial Court committed an illegality in not awarding the interest on the amount of compensation from the date of suit.

5. The learned Counsel for the respondents defended the impugned judgment passed by the trial Court and contended that the amount of compensation awarded in the present case is just and reasonable and no interference in it is called for. In alternative, he contended that as per second scheduled, the multiplier of 13 is applicable in respect of victim above 45 years but not exceeding 50 years, therefore, at the most the multiplier of 13 can be applied in the present case.

6. I have considered the submissions of learned Counsel for both the parties. The only issue for adjudication in the present appeal is as to whether the multiplier of 15 should be applied or multiplier of 13 should be applied for the purpose of awarding the compensation. Although the second schedule appended to Section 163A of the Motor Vehicles Act, 1988, is not applicable directly in the cases relating to fatal accident, but the said schedule can be adopted for the purpose of awarding the compensation in these matters also. The trial Court applied the multiplier of 10. As per second schedule, the multiplier of 15 is applicable in respect of victim above 40 years of age but not exceeding 45 years and multiplier of 13 is applicable where the age of victim is above 45 years, but not exceeding 50 years. In the present case, the trial Court has recorded a finding that deceased was 45 years of age. So far as the income of the deceased is concerned, the learned Counsel for the appellant has not challenged the finding of the trial Court in this regard. The learned Counsel for the appellant has also not challenged that 1/3rd amount is liable to be deducted from the total compensation to be awarded on account of personal expenses of the deceased.

7. After considering the submissions of learned Counsel for both the parties in respect of multiplier to be adopted in the present case, I am of the view that ends of justice will meet in case the multiplier of 14 is applied in the present case, therefore, the total amount of compensation comes to Rs. 2000 x 12 x 14 i.e. Rs. 3,36,000-1/3rd amount=Rs. 2,24,000/-. The appellant is also entitled to interest on the amount of compensation at the rate of 6% per annum from the date of filing of the suit till the date of realization. It is also made clear that whatever the amount which has been paid by the respondents will be adjusted.

8. Consequently, the appeal is allowed. The amount of compensation is enhanced from Rs. 1,60,000/- to Rs. 2,24,000/-. This amount shall also carry interest @ 6% per annum from the date of filing of the suit till the date of realization. The amount already paid by the respondents will be adjusted.

9. There will be no order as to costs.