
(2012) 09 RAJ CK 0044

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No"s. 3668 and 5777 of 2011

National Insurance Co. Ltd.

APPELLANT

Vs

Smt. Hansa Devi and Others
 Smt. Hansa Devi and
Others Vs Mohd. Kalam Khan and Others

RESPONDENT

Date of Decision : 27-09-2012

Acts Referred:

Citation : (2013) 2 CDR 781

Hon'ble Judges : M.C. Sharma, J

Bench : Single Bench

Advocate : S.R. Joshi, for the Insurance Co, for the Appellant; Satish Khandal, for the Respondent

Final Decision : Dismissed

Judgement

M.C. Sharma, J.—Since both the aforesaid two appeals arise out of the judgment and award dt. 15.6.2011 passed by the MACT, Jaipur City, Jaipur, hence the arguments have been heard together and they are being decided by this common judgment. Brief facts of the case are that on 19.4.2006, Ghanshyam, husband of Smt. Hansa Devi was riding on a motor-cycle and going on the correct side of the road from Ramganj Choppaer to Surajpol Gate. At that time, a truck No. RJ-25-GA-0169 which was being driven rashly and negligently by defendant No. 1 Mohd. Kalam hit the motor cycle from behind, due to which the victim Ghanshyam fell down and sustained serious injuries and succumbed to the same.

2. Thereafter, First Information Report was lodged. Claim petition was filed. Notices were issued, written statement was filed, issues were framed, evidence was submitted and after hearing the arguments of both the sides, the learned Tribunal has passed the impugned award awarding Rs. 15,75,100/- in favour of claimant and against the non-claimants.

3. Being aggrieved by the aforesaid award, the claimants have filed the appeal

for enhancement of compensation, while Insurance Company has filed the appeal for setting aside the impugned award.

4. Learned counsel for the Insurance Company has contended that the Tribunal has not considered the evidence of the claimant AW 1 Smt. Hansa Devi, who has stated in her evidence that she was appointed on compassionate ground on the death of her husband and that her fixed salary was Rs. 4850/-, which would be increased on her becoming regular employee. Learned counsel drew my attention towards the judgment of Hon"ble Supreme-Court in the case of Bhakra Beas Management Board Vs. Smt. Kanta Aggarwal and Others, and contended that in the above stated judgment the Apex Court reduced the compensation amount of Rs. 8,48,106/- to Rs. 5,00,000/- in final settlement of claim. Hence the impugned award deserves to be quashed and set-aside.

5. On the other hand, learned counsel for the claimants contended that the Tribunal has not awarded any compensation in the head of mental agony. Looking to the age of parent and three children and all other facts and circumstances of the present case, a just and proper amount should have been awarded in favour of the appellants. Learned counsel further drew the attention of this Court towards the judgment rendered in the case of Sarla Verma, Indra Shrivastava. He has further contended that the amount of compensation awarded by the learned Tribunal is not just and proper, hence the same should be enhanced.

6. Considering the entire facts and circumstances of the case and also the evidence emerging on record and the aforesaid judgments, as submitted by both the parties, I do not think, it proper to interfere in the impugned award passed by the learned Tribunal. Hence, both the aforesaid appeals fail and the same being bereft of any merit deserve to be dismissed, which stand dismissed accordingly. Consequently upon the dismissal of appeals, the stay application, filed herewith, does not survive and it also stands dismissed.