

(2013) 03 RAJ CK 0004

In the Rajasthan High Court

Case No : Civil Misc. Appeal No. 1455 of 2012 and Civil Misc. Stay Application No. 1164 of 2012

New India Assurance Co. Ltd.

APPELLANT

Vs

Meenu Singh and Others

RESPONDENT

Date of Decision : 05-03-2013

Acts Referred:

Citation : (2014) 1 ACC 795

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

Bench : Single Bench

Final Decision : Dismissed

Judgement

M.C. Sharma, J.—This appeal has been filed against the judgment and award passed by M.A.C.T.

Brief facts of the case are as under:

On 11.5.2006, deceased Mr. Beerbal along with his friend Suman Prakash was going from his house towards Sindhi Camp Bus Stand by Motor Cycle and at about 11.00 p.m. when they reached opposite a temple just prior Chomu Cricle, a Maruti Car No. RJ-14-3C-9161 driven by its driver in rash and negligent manner came from opposite side and hit the motor cycle. As a result of which, both the occupants of motorcycle fell down and got grievously Injured. Mr. Beerbal succumbed to injuries.

Thereafter FIR was lodged, claim petition was filed, notices were issued, issues were framed, evidence was recorded and after hearing both the sides, the learned Tribunal decreed an amount of Rs. 8,81,000 in favour of claimants and against the non-claimants vide its judgment and award dated 31.3.2008 along with interest @ 9% per annum.

2. Against the aforesaid judgment and award, the claimants filed Civil Misc. Appeal No. 2091/2008 titled as Smt. Meenu Singh & Ors. v. Mazid Khan & Ors.,

before this Court. On 27.5.2011, the aforesaid appeal was remanded by this Court to the learned Tribunal for fresh adjudication qua issue No. 4 in the light of the judgment of Hon''ble Apex Court rendered in the case of Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, . Thereafter on 5.1.2012, the issue No. 4 has been decided by the learned Tribunal afresh and amount of compensation has been enhanced from Rs. 8,81,000 to Rs. 12,59,000. Against the aforesaid judgment and award dated 5.1.2012, the instant appeal has been filed by the New India Assurance Company Ltd.

3. Learned Counsel for the appellant has contended that he is not contesting or challenging or disputing the amount of award dated 31.3.2008 passed by the learned Tribunal, but he is only requesting to this Court that whatever the amount has been enhanced by the Tribunal while passing the judgment and award dated 5.1.2012 be set-aside. Learned Counsel has further contended that the Tribunal had to decide issue No. 4 afresh on the basis of the judgment delivered by the Hon''ble Apex Court in the case of Sarla Verma (supra) and according to which the amount of salary cannot be enhanced. He has further contended that at the time of passing the previous judgment and award dated 31.3.2008, the issue No. 4 had rightly been decided by the learned Tribunal. The learned Tribunal has committed material illegality while enhancing the amount of compensation under the judgment and award dated 5.1.2012. Hence, the judgment and award dated 5.1.2012 passed by the learned Tribunal, vide which the amount of compensation has been enhanced, be set-aside.

4. On the other hand, learned Counsel for the claimants has contended that this Court had remanded the matter to the learned Tribunal to decide the issue No. 4 afresh in the light of the judgment delivered by the Hon''ble Apex Court in the case of Sarla Verma (supra). He has further contended that the appellant has raised all the objections and produced evidence also qua issue No. 4 before the Tribunal and the learned Tribunal having considered each and every aspect of the matter, rightly passed the judgment and award dated 5.1.2012. He has further contended that previously the Tribunal passed the judgment and award on the basis of basic salary of the deceased, which was to the tune of Rs. 6,000 per month, while the total salary of the deceased at the time of accident was Rs. 10,000 per month, which has been taken into consideration by the learned Tribunal while passing the judgment and award afresh. The deceased was the Librarian in Swami Keshvanand Institute of Technology, Management & Gramothan. The Tribunal has rightly assessed the salary of the deceased to be Rs. 10,000 per month, hence the Tribunal has not committed any illegality in enhancing the amount of compensation on the basis of salary certificate i.e. Rs. 10,000 per month. Previously the learned Tribunal committed error while not awarding the amount of compensation on the basis of salary certificate of the deceased.

5. I have heard learned Counsel for the parties and perused the impugned judgment and award dated 5.1.2012. The salary certificate, which has been

produced by the successors of the deceased, who was an employee of Swami Keshvanand Institute of Technology, Management and Gramothan indicates that the salary of the deceased was Rs. 10,000 per month at the time of his death, but since the appeal was not filed by the successors of the deceased, the question of enhancing the amount of compensation did not arise in the appeal and the matter was remanded to the learned Tribunal.

6. The learned Tribunal having dealt with each and every aspect of the matter ad longum and the evidence emerging on record, rightly awarded the quantum of compensation. The impugned award passed by the learned Tribunal is found not to have suffered from any legal flaw, rather it is found to be just and apposite, based on cogent finding, with which I fully concur.

7. For the reasons stated, I do not find any ground to interfere in the impugned award passed by the learned Tribunal and the appeal filed by the Insurance Company being bereft of any merit deserves to be dismissed, which stands dismissed accordingly. Stay application also stands dismissed.