(1996) 09 PAT CK 0060

In the Patna High Court

Case No : M.A. No. 114 of 1994 (R)

New India Assurance Co. Ltd. APPELLANT

Vs

Mrs. M. Ramnamma and Others RESPONDENT

Date of Decision : 17-09-1996

Acts Referred:

Citation : (1996) 2 BLJR 1531

Hon'ble Judges : Prasun Kumar Deb, J

Bench : Single Bench

Judgement

Prasun Kumar Deb, J.—This appeal has been preferred against the judgment and award dated 21.3.1994 passed by Shri L.K. Sahay, 2nd Additional District Judge Cum-Motor Accident Claims Tribunal, Jamshedpur. In compensation case No. 3 of 1991.

2. The deceased M. Nehru along with M. Ram Babu and N. Govind Rao were going to South Park on an Yezdi Motor cycle bearing registration No. AVB 9410 then a truck bearing registration No. AMN 4368 come from behind with high speed and dashed against the said motor cycle as a result of which the two persons i.e. the driver and pillion rider of the motor cycle sustained severe injuries on their person. M. Ram Babu died instantaneously on the spot and the deceased M. Nehru died in the T.M.H. Hospital, Jamshedpur. Another person N. Govind Rao sustained fracture injury in the said accident.

3. The deceased M. Nehru was aged about 21-22 years at the time of death and he was keeping good health. He was a business man running business of Tent House in the name and style of Raju Tent House and was earning a sum of Rs. 3,500/- per month, as alleged from the side of the claimant who is none but the mother of the deceased. Except the claimant-mother there is no other liabilities of the deceased as he died unmarried intestate. The claim of rupees eight lacs was made as compensation.

4. The driver of the truck and the New India Assurance Company Limited with

whom/the track insured at the relevant time had contested the claim case both on the point of factum of accident arid also of compensation. The learned Tribunal after considering the evidence on record held that the accident occurred due to the sole responsibility of the truck driver as being heavily negligent coining from behind and had dashed against the motorcycle.

5. The learned Tribunal had determined the monthly dependency of the claimant as Rs. 1000/- (Rupees one thousand), it the time of filling of the claim, she was aged about 60 years and the longivity was calculated at 75 years and after using multiplier of 15, a sum of Rs. 1.18 lacs has been awarded as compensation with interest at the rate of 10% per annum from the date of filing of the petition till the realisation.

6. Mr. Shamim Akhtar, for and on behalf of the appellant-Insurance company has challenged the award on the quantum of compensation in the present appeal. According to him, the quantum of award is not only exorbitant but highly inflated too and the learned Tribunal had committed an error in using the improper multiplier in the case. By referring a decision of the Supreme Court in the case of General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others, , it is the contention of Mr. Akhtar that when Rs. 1000/- has been considered as monthly dependency then the quantum of compensation should be assessed in such a way that if the amount is deposited in F.D.R. in a National Bank, a dependent can get the same benefit when he or she was getting while the deceased was living. In that sense, he has fairly submitted that when Rs. 1000/- was considered as monthly dependency then at best Rupees One lac can be the proper compensation even on higher side of getting the same benefit to the claimant respondent during her life time. The claimant-respondent was admittedly 60 years of ago and her longevity was determined at 75 years which is against the norms as enunciated by the Supreme Court of India.

7. Mr. M.M. Benerjee, appearing for and on behalf of the respondent-claimant do not argue much on the quantum of compensation and in view of the above position and the law enunciated by the Apex Court, the quantum of compensation assessed to 100,000/- with interest as awarded by the learned tribunal. The amount of no-fault liability which was already paid by the Insurance company shall be deducted from the award of compensation of Rs. 1,00,000/- and interest thereof and further another sum of Rs. 25,000/- which was deposited towards statutory liability at the time of filling of the appeal, the same may also be disbursed in favour of the respondent-claimant. By order dated 21.8.1996 another sum of Rs. 50,000/- was ordered to be paid by the appellant Insurance Company while prayer for stay regarding execution case No. 1/96 was allowed. If such deposit have been made by the Insurance Company, the same can also be disbursed in favour of the respondent-claimant. The interest which has been accrued should also be paid immediately within two months next positively. If the amount of Rs. 50,000/- as ordered has not been paid, the same

should also be paid immediately, but the dates of payment of the above amount shall be considered while calculating the interest as awarded.

8. The Appeal is allowed in part but without costs.