(2020) 12 RAJ CK 0060

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 1635 Of 2020

New India Assurance Co. Ltd. APPELLANT

Vs

Santosh Kanwar And Ors RESPONDENT

Date of Decision : 14-12-2020

Acts Referred:

Citation : (2020) 12 RAJ CK 0060

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : Anil Bachhawat, B. S. Rathore

Final Decision : Dismissed

Judgement

This appeal is directed against the judgment and award dated 04.02.2020 passed by Motor Accident Claims Tribunal, Didwana ('the Tribunal')

whereby, the Tribunal has awarded a sum of Rs. 43,19,200/- as compensation alongwith interest @ 8% per annum from the date of application i.e.

26.11.2014.

The application for compensation was filed by claimant wife of the deceased seeking compensation to the tune of Rs. 1,09,11,248/- inter alia with the

submissions that the deceased was travelling alongwith his daughter-in-law and grand children in Bolero (RJ-037-UA-8283) when the offending

vehicle, a Truck No. PB-02-BP-9612, which was being driven rashly and negligently by its driver, struck the Bolero, resulting in grievous injuries to

Madan Singh, to which he succumbed. The compensation as indicated herein before, based on the fact that deceased was in Government service, was

sought.

The application was contested by the driver, owner and insurer of the Bolero.

The Tribunal framed four issues. After evidence was led by the parties, the Tribunal came to the conclusion that the accident occurred on account of

negligence of the driver of the offending vehicle. While assessing the quantum of compensation, the Tribunal came to the conclusion that the deceased

was aged 59 years, applied a multiplier of 9 and based on the last Pay Certificate, assessed the income of the deceased at Rs. 51,318/- per month,

applied future prospects @ 15% and as the claimant was the only dependent, deducted one-third towards personal expenses and after adding standard

amounts, granted compensation to the tune of Rs. 43,19,200/-.

It is submitted by learned counsel for the appellant- Insurance Company that the Tribunal was not justified in awarding huge compensation to the

claimant. It was submitted that as the claimant was the only dependent on the deceased the deduction instead of one-third should have been half.

Further submissions were made that as the claimant was receiving pension, the said amount should also have been deducted.

It is further submitted that as deceased was nearing 60 years of age, the multiplier was required to be split by the Tribunal.

Reference was made to the observations made by Hon'ble Supreme Court in the case Sarla Verma v. Delhi Transport Corporation : (2009) 6 SCC

121.

Learned counsel appearing for the claimant on caveat made submissions that both the issues sought to be projected by learned counsel for the

appellant seeking to question the quantum of compensation is / are without basis.

It was submitted that a plain reading of the judgment in the case of Sarla Verma (supra) would indicate that in case of a married person, the maximum

deduction, towards personal expenses would be one-third, even if dependent is one only.

Further submissions have made that the amount of pension received by the claimant cannot be deducted.

Reliance was placed on judgment in Reliance General Insurance Company Ltd. v. Shashi Sharma: (2016) 9 SCC 627.

I have considered the submissions made by learned counsel for the parties and have perused the material available on record.

The facts are not in dispute and even quantum of compensation also is not in dispute. The only dispute pertains to the deduction for personal expenses applied by the Tribunal, the application of split multiplier and the deduction for the amount of pension to be received by the wife of the deceased.

The issues sought to be raised are no more res integra inasmuch as Hon'ble Supreme Court in the case of National Insurance Company vs. Pranay

Sethi & Ors. AIR 2017 SC 5157 ,has settled the principles qua the award of compensation, wherein, inter alia it has been laid down that the

compensation has to be assessed based on judgment in the case of Sarla Verma (supra).

In the case of Sarla Verma (supra) on the issue of deduction for personal and living expenses it was laid down as under:

Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra,

the general practice is to apply standardized deductions. Having considered several subsequent decisions of this Court, we are of the view that where

the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of

dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependent family members is 4 to 6, and one-fifth (1/5th) where the

number of dependent family members exceed six.

A plain reading of the above determination reveals that in case of a deceased, who is married, the deduction towards personal and living expenses of

the deceased should be one-third and the said one-third would extend in case the dependents are up to 3.

In view thereof, the plea sought to be raised by learned counsel for the appellant on the said aspect has no substance.

In fact in the case of Sarla Verma (supra) 50% deduction has only been envisaged in case of death of a bachelor.

So far as the application of split multiplier is concerned, neither in the case of Pranay Sethi (supra) nor in the case of Sarla Verma(supra), the theory

of split multiplier has been recognized and / or provided by Hon'ble Supreme Court and, therefore, the submissions made in this regard also have no

substance.

The issue of deduction based on the pension to be received by the claimant is no more res integra as Hon'ble Supreme Court in the case of Shashi

Sharma (supra) has laid down that the said amount cannot be deducted from the amount of compensation.

In view of above discussion, the submissions made by learned counsel for the appellant cannot be accepted. The quantum of compensation as

awarded by the Tribunal does not call for any interference. There is not substance in the appeal and the same is, therefore, dismissed.