

(2019) 01 RAJ CK 0052

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 2521 Of 2017

Oriental Insurance Company Limited

APPELLANT

Vs

Jamna Bai And Ors

RESPONDENT

Date of Decision : 07-01-2019

Acts Referred:

Motor Vehicles Act, 1988 — Section 140, 166, 168, 173

Citation : (2019) 01 RAJ CK 0052

Hon'ble Judges : P.K. Lohra, J

Bench : Single Bench

Advocate : Mukul Singhvi, J.V.S. Deora

Final Decision : Dismissed

Judgement

Appellant-Insurer has preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 (for short, 'Act') to challenge judgment and award dated 16.05.2017, passed by Motor Accident Claims Tribunal, Rajsamand (for short, 'learned Tribunal').

Learned Tribunal, by the impugned judgment and award, while adjudicating claim of the respondents under Section 166 read with Section 140 of the Act, quantified and awarded compensation to the tune of Rs.28,61,864/- under different heads.

The facts apposite for the purpose of this appeal are that respondent-claimants filed a claim under the aforesaid provision inter-alia on the ground that deceased Bhim Singh, aged 55 years, while on duty, on 27.06.2015, was returning from Delwada to Kailashpuri on motorbike, met with an accident, which was caused by Truck-Container bearing registration No.HR-38-P-9309. As a consequence of the accident Bhim Singh suffered grave and serious crushing injuries and eventually during treatment at Maharana Bhupal Govt. Hospital, succumbed to the injuries. It is averred in the claim that at the time of death, deceased was constable with Police Department and all the claimants are his dependents. Attributing total

callousness and negligence on the part of insured vehicle, the respondent-claimants quantified total amount of compensation to the tune of Rs.1,55,40,000/- under different heads.

The claim petition is contested by insurer and nobody appeared on behalf of owner and driver of the insured vehicle. Due to absence of owner and driver, learned Tribunal decided the claim ex-parte against them. Appellant-insurer has essentially joined the issue with claimants precisely by taking shelter of certain technical objections about non-availability of permit and driving licence of the driver of vehicle. Some other omissions were also attributed to the driver of motorcycle within the four corners of the Act. For substantiating the claim, on behalf of respondent-claimants, 2 witnesses were examined and 21 documents were tendered, which were exhibited. Although, many objections were raised by the insurer in return but no evidence was produced to substantiate the same.

Learned Tribunal, thereafter, proceeded to hear final arguments and decided Issue Nos.1 & 2 in favour of respondent-claimants and against the insurer. While deciding these two issues, learned Tribunal has also taken care of the legal precedents besides the materials available on record. Switching on Issue No.3, the same was also decided against the insurer in want of any evidence. The crucial issue relating to quantifying of compensation, i.e., Issue No.4 was examined threadbare by the learned Tribunal in the backdrop of available material and taking into account age of the deceased and number of dependents, learned Tribunal made 1/4 deduction for his personal expenses and pressed into service multiplier of 8 for arriving at compensation to the tune of Rs.26,61,864/- for loss of dependency. After adding compensation under the other heads the learned Tribunal finally worked out total amount to the tune of Rs.28,61,864/-. While calculating the amount of just compensation, learned Tribunal has placed reliance on authoritative pronouncements of Supreme Court in case of Sarla Verma Vs. Delhi Transport Company [(2009) 6 SCC 121] and some other legal precedents.

I have heard learned counsel for the parties and perused the impugned judgment and award.

Upon perusal of impugned judgment and award, in my opinion, learned Tribunal, while deciding Issue Nos.1 & 2 as well as Issue No.3 in favour of respondent-claimants and against appellant-insurer, has not committed any error in appreciation of evidence. The issue relating to quantum of compensation is also decided by the learned Tribunal in the backdrop of available material, occupation and salary of deceased, who was a government employee. Moreover, the learned Tribunal, while determining compensation, has also placed reliance on legal precedents keeping in view the available material.

In totality, the amount of compensation assessed by learned Tribunal is just and reasonable satisfying the parameters envisaged under Section 168 of the Act.

In view thereof, I find no force to interfere with the impugned judgment and

award. Consequently, the appeals fails and same is hereby rejected.