
(2006) 01 PAT CK 0069
In the Patna High Court

Phoolmati Devi and Another

APPELLANT

Vs

Bibha Sinha and Another

RESPONDENT

Date of Decision : 30-01-2006

Acts Referred:

Motor Vehicles Act, 1988 — Section 163A, 173

Citation : (2006) 3 ACC 46 : (2006) 2 PLJR 16

Hon'ble Judges : J.N. Bhatt, C.J

Bench : Single Bench

Judgement

J.N. Bhatt, C.J.—The only question, which arises for consideration in this appeal u/s 173 of the Motor Vehicles Act, 1988 (M.V. Act), is against the award recorded by the Motor Vehicle Accident Claims Tribunal-cum-1st Additional District Judge, Muzaffarpur (in short "the Tribunal") in claims case No. 2 of 1996 passed on 30th June, 1999, whereby an amount of Rs. 1,16,832 came to be awarded to the unfortunate parents on account of death of their unmarried son in a vehicular accident which occurred on 3rd September, 1995, while the deceased was travelling in "Tata 407 Maxi" bearing registration No. BR-06P-3051 from Raksa Thana Karja of Muzaffarpur in the State of Bihar.

2. Following aspects are uncontroverted and have emerged from the records-

(i) the deceased, Arun Kumar Yadav, was around 20 years of age and the parents are the claimants;

(ii) there was a fatal accident which resulted into the instantaneous death of deceased Arun Kumar, son of the appellant-original claimants;

(iii) there is no evidence that deceased Arun Kumar was educated;

(iv) there is no independent evidence that he was earning and contributing to the family fund except the evidence of the parents;

(v) there is no dispute about the fact that respondent No. 1 has been the owner and respondent No. 2 has been insurer of the offending vehicle; and

(vi) the Tribunal has taken into consideration the relevant aspects in fixing the dependency value and thereafter has appropriately multiplied with an appropriate multiplier.

3. The learned Counsel appearing for the appellant-original claimants have impugned the impugned award, inter alia, contending that the notional income of the deceased, atleast, ought to have been calculated and estimated at Rs. 15,000 per annum, in terms of the provisions incorporated in the Second Schedule, prescribed u/s 163A of the M.V. Act. Even if this submission is accepted on its face value, then also loss of the dependency value suffered by the parents in any case would not be more than one lac, whereas, the Tribunal has awarded more amount than awardable on the structured Formula basis. If the income of the deceased as per the said submission is established at Rs. 15,000 per annum, the appropriate multiplier that would apply to the case on hand, would be 16. Then in that case, the total loss of income would come to Rs. 2,40,000 on account of the sad demise of the son, aged about 20, as required under the provisions of the said Schedule. It has to be deducted by 1/3rd therefore, the loss of the dependency value would come to Rs. 80,000 as the deceased was unmarried son aged about 20.

4. Considering the amount of loss of dependency value and nature of miscellaneous and incidental expenses, there is nothing to suggest that the amount of award would, in any case, be more than Rs. 1,16,832, as awarded by the Tribunal.

5. Taking into consideration the overall facts and circumstances, the relevant provisions of law and the underlying principles governing the amount of compensation awardable under the Act, the award passed by the Tribunal, as challenged in this appeal, cannot be said to be, in any way, unjust, perverse and unreasonable and is beyond the jurisdictional sweep of the appellate power of this Court u/s 173 of the M.V. Act. The amount awarded under the Act is very much circumspect requiring any interference by this Court. The Appellate Court will ordinarily not interfere with the impugned award unless the amount awarded under the Act, by way of compensation arising out of a vehicular accident, is either factually wrong, exorbitant, excessive or very much inadequate.

6. In the present case, the amount of Rs. 1,16,832 awarded by the Tribunal under both the heads, that is, pecuniary and non-pecuniary loss, suffered by the parents on account of loss of life of an unmarried son, aged about 20 is quite justified requiring no interference. The appeal, therefore, deserves to be dismissed on merits. It shall stand dismissed. No costs.