
(2004) 12 RAJ CK 0044
In the Rajasthan High Court

Pritam Chand and Others

APPELLANT

Vs

Sita Ram and Others

RESPONDENT

Date of Decision : 01-12-2004

Acts Referred:

Citation : (2005) 3 ACC 267

Hon'ble Judges : Dalip Singh, J

Bench : Single Bench

Judgement

Dalip Singh, J.—These two appeals arise out of the same award passed by the Motor Accident Claims Tribunal, Jaipur City, Jaipur dated 27.9.1994 whereby for the death of Sushil Kumar a Claim Petition No. 391/1991 has been decided and for the death of Ajay Singh in the same accident of claim Petition No. 117/1991 has been decided by awarding a sum of Rs. 80,000/- as compensation and both the deceased persons were aged 18 and 19 years respectively.

2. The submission of the learned Counsel for the appellants is that in the case of Ajay Singh, the evidence had been led by production of certificate to show the income of the deceased as Rs. 2,500/- per month which is (Ex. P.10) on record but the learned Tribunal disbelieved the said evidence and in arbitrary manner decided the case granting the lump sum payment of Rs. 80,000/- for the loss of income of the deceased.

3. The case of the appellant so far as the claim arising out of the death of Sushil Kumar is also similar and in his case the certificate (Ex. P. 12) showing the income of the deceased as Rs. 12,000/- was disbelieved by the Tribunal for his death also for the loss of income a consolidated figure of Rs. 80,000/- has been arrived at by the learned Tribunal which is highly inadequate and arbitrary.

4. Learned Counsel for the appellants has submitted that there was no occasion for the Tribunal to have disbelieved the evidence led on behalf of the claimants and on the basis of the income certificate the loss of income ought to have been assessed by the Tribunal.

5. Learned Counsel for the respondents, on the other hand, submits that the learned Tribunal has not in any manner, erred in rejecting the said evidence of the income certificate as the same was not produced at the time of filing of the claim petition and such certificate of income can be prepared and produced at any time by any personal and have no evidential value at all.

6. Learned Counsel for the appellants in the alternative has submitted that in the light of judgment of Their Lordships of the Hon''ble Supreme Court in the case of Shanti Bai and Others Vs. Charan Singh and Others, wherein the facts stated were similar to the facts of the instant case. Their Lordships of the Hon''ble supreme Court in the case of the deceased aged 18 years have held that the deceased would be earning at-least Rs. 10/- per day and in case, he had been survived, he would have earned substantial amount for the benefit of the family and, therefore, Their Lordships were of the opinion, that an amount of Rs. 40,000/- which was awarded by way of earning is inadequate. Their Lordships, therefore, taking over all view, awarded compensation of Rs. 1,50,000/- for the death of the deceased aged 18 years who was a labourer and who died in the accident in the year 1991.

7. I have given my thoughtful consideration to the submissions made at the Bar and perused the judgment cited above by the learned Counsel for the appellant. In the facts and circumstances of the present case, I am inclined to take the same view as has been taken in the case of Shanti Bai and Ors. v. Charan Singh and Ors. (supra). In the present case also the deceased were aged 18 and 19 years respectively which was the age of the deceased in the above cited case. The deceased was run over by a truck in the accident which occurred in the year 1991. In the present case the accident occurred on 5.11.1990. Their Lordships of the Hon''ble supreme Court holding that the victim was 18 years of the age and belonging to the labour class and would be getting Rs. 10/- per day and if he would have survived, he would have contributed to the benefit of income of the family. In the present case certificate has been filed to show the income of the deceased as Rs. 2,500/- or Rs. 2,000/- per month which have though not been relied upon by the Tribunal but taking the fact that the deceased would at least be earning something and contributing towards the family and in future the earning would have been contributed substantially towards the family. In such like circumstances since Their Lordships of the Supreme Court deemed it proper to award an amount of Rs. 1,50,000/-, I would respectfully fall in agreement and award an amount of Rs. 1,50,000/- as compensation for the death of deceased Ajay Singh and Sushil Kumar each. In these appeals, it has been stated at the Bar that the amount of award i.e., Rs. 20,000/- has already been paid to the appellant-claimants.

8. Consequently, these appeals are allowed to the extent that the amount awarded under the award is enhanced from Rs. 80,000/- to Rs. 1,50,000/- (Rs. one lac fifty thousand only) in all in the case of CM.A. No. 118/1995, Chhagan Kanwar v. Sita Ram the respondent would be liable to pay Rs. 70,000/- (Rs.

seventy thousand only) by way of demand draft/crossed cheque or to deposit with the Tribunal the aforesaid amount within a period of three months from today. In case, the said amount of Rs. 70,000/- is paid or deposited with the Tribunal within the stipulated period of three months, the claimants would be entitled to get interest on the said amount of Rs. 70,000/- at the rate of 6% per annum from the date of filing of the appeal which is 2.1.1995. In case, the respondents fail to deposit or pay the amount to the claimants, within a period of three months, the claimants would be entitled to get the interest on the said amount at the rate of 9% per annum w.e.f. the date of filing of the claim petition i.e., 23.11.1990.

9. So far as C.M.A. No. 117/1995, Pritam Chand and Ors. v. Sita Ram and Ors. is concerned, which has been filed for the enhancement of compensation on account of the death of Sushil Kumar, the amount of compensation is enhanced from Rs. 60,000/- (Rs. sixty thousand only) to Rs. 1,50,000/- (Rs. one lac fifty thousand only) in all. The respondents would be liable to pay the balance amount of Rs. 90,000/- (Rs. ninety thousand only). As it is stated at bar that the amount of Rs. 60,000/- as awarded by the Tribunal has already been paid to the claimants, the respondents would be liable to pay Rs. 90,000/- to the appellants by way of DD/Crossed Cheque or to deposit the same with the Tribunal within a period of three months. In case, the said amount is paid or deposited to the appellant within the stipulated period of three months from today, the same shall be paid or deposited along with the interest @ 6% per annum from the date of filing of this appeal i.e., 2.1.1995. In case, the respondents fail to deposit or pay the amount to the claimants, within the said period, the claimants would be entitled to recover the said amount with interest @ 9% per annum w.e.f. the date of filing of the claim petition i.e., 23.11.1990.

10. No order as to costs.