
(2014) 03 RAJ CK 0088
In the Rajasthan High Court
Case No : Civil Misc. Appeal No. 2 of 1999

Raj Bala

APPELLANT

Vs

R.S.R.T.C.

RESPONDENT

Date of Decision : 25-03-2014

Acts Referred:

Citation : (2014) 4 RLW 3050

Hon'ble Judges : Atul Kumar Jain, J

Bench : Single Bench

Advocate : M.A. Siddiqui, Advocate for the Appellant; Anil Bachhawat, Advocate for the Respondent

Judgement

Atul Kumar Jain, J.—This is an appeal for enhancement of compensation which was awarded by Motor Accident Claims Tribunal (D.J.), Hanumangarh in Motor Accident Claims Case No. 606/1994 titled as Raj Bala & Ors. vs. R.S.R.T.C. & Ors. Claim had been filed in Motor Accident Claims Tribunal on 1.12.1994. The deceased was posted as Hawaldar in Army and the claimants are his widow and two minor sons and one minor daughter. The facts which are not in dispute in this case are to the effect that deceased Dilbag Singh was going on a scooter on 27.8.1994 and because of rash and negligent driving of bus No. RJ 14 P. 0258 of R.S.R.T.C., the scooter collided with the bus and Dilbag Singh, who was driving the scooter, succumbed on the spot due to injuries.

2. The Motor Accident Claims Tribunal, Hanumangarh has awarded an amount of Rs. 55,400/- (Rs. fifty four thousand five hundred) as compensation to the claimants and the calculation made by the Tribunal is as follows:-

(i) the deceased was earning a salary of Rs. 2300/- per month as per the statement of his wife. Out of this salary, the deceased would have spent 1/3rd portion of income on himself and he would have spent 2/3rd of the salary on his family, so at the most, he would have spent Rs. 1500/- on his family and family pension is Rs. 1300/- per month which is being received by the family, so

financial loss to the family was assessed as Rs. 200/- per month only and since Raj Bala was of 29 years of age at the time of death of her husband, so a multiplier of 16 was applied by the Motor Accident Claims Tribunal and so, Rs. $200 \times 12 \times 16 =$ Rs. 38,400/- were held payable as per the schedule given in Motor Vehicles Act. An amount of Rs. 15,000/- was awarded for loss of love and affection and loss of consortium and an amount of Rs. 2,000/- was awarded for funeral expenses and thus, in total, Rs. 55,400/- was awarded to the claimants, out of which Rs. 50,000/- had already been paid as interim compensation to the claimants, so the remaining amount of Rs. 5,400/- only was held payable to the claimants with 12% interest per annum from 11.2.1994 on this amount.

3. The learned counsel for the appellants has argued that the Government servant aged 30 years has died in the accident leaving behind young widow and three minor children and so the amount be enhanced to make it just compensation. It has been argued on the basis of Kishan Gopal and Another Vs. Lala and Others, that in a case of death of a ten years old boy in a motor accident, an amount of Rs. five lacs was awarded as compensation by the Apex Court to the parents of the deceased boy though there was no proof of income of the boy. So, the amount of compensation should be suitably enhanced in present matter also. Looking to the principles laid down in Kishan Gopal's case (supra), it has further been argued that amount of family pension also should not be reduced while calculating the loss of family income. It has further been argued that future prospects of promotion of the deceased should also be taken into account while calculating the compensation.

4. I have heard arguments of both the sides.

5. In Bhakra Beas Management Board Vs. Smt. Kanta Aggarwal and Others, , it was held that the benefits, which the claimants received on account of death of the victim, have to be duly considered while fixing compensation. In that case, the deceased was survived by his widow and three children. The widow had got appointment on compassionate ground and she was provided residential facility also by the employer, so an award of Rs. 8,48,106/- passed by the High Court was reduced to Rs. 5,00,000/- only in full and final settlement of the claim by Hon"ble the Apex Court.

6. Following rulings also give guidance for assessment of future prospects:-

- (1) Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another,
- (2) Santosh Devi Vs. National Insurance Company Ltd. and Others,
- (3) Reshma Kumari and Others Vs. Madan Mohan and Another,
- (4) Leela Gupta and Others Vs. State of Uttar Pradesh and Others,
- (5) Rajesh and Others Vs. Rajbir Singh and Others,

7. In all the aforesaid cases it has been held that future prospects of the deceased cannot be ignored while granting compensation in a case of motor

accident claim and 50% of actual income (after deduction of tax) for persons below 40 years, 30% of actual income for age group of 40-50 years, 15% for age group of 50-60 years, but no addition thereafter, should be made to the salary for assessment of just compensation.

8. According to the principles propounded in the aforesaid rulings, the income of the deceased Dilbag Singh, Hawaldar, looking to his age, should have been taken as Rs. 2250 + Rs. 1125 = Rs. 3375/-. Out of this, 1/3rd income may be deducted for personal expenses of deceased then he could have contributed for his family an amount of Rs. 2250/- per month. Reduction of family pension of Rs. 1300/- from this amount was made by the Tribunal, but family pension cannot be deducted from the income of the deceased as has been held in the following rulings:-

(1) Mrs. Helen C. Rebello and Others Vs. Maharashtra State Road Transport Corpn. and Another,

(2) United India Insurance Co. Ltd. Vs. Patricia Jean Mahajan and Others Etc. Etc.,

(3) Sushila Nagar and Others Vs. Ugam Singh and Others,

(4) Amarjit Kaur and Others Vs. State of Punjab and Others,

(5) National Insurance Co. Ltd. Vs. Renu Bala and Others,

9. Looking to the age of the deceased, multiplier of 16 has rightly been applied by the Tribunal and so the amount comes to Rs. 2250 x 12 x 16 = Rs. 4,32,000/-. To this amount, Rs. 1,00,000/- should be added for loss of love and affection loss of consortium and funeral expenses etc. as per the latest Apex Court Judgment and thus, the total amount of compensation comes to Rs. 4,32,000/- + Rs. 1,00,000/- = Rs. 5,32,000/-. An award is hereby passed to that effect. The original amount of Rs. 55,400/- will be payable with the stipulated rate of interest as mentioned in the award of the Motor Accident Claims Tribunal, Hanumangarh and the remaining (enhanced) amount with 7% simple annual interest will now be payable from the date of the filing of the claim-petition, i.e. 1.12.1994. The enhanced amount with interest as mentioned above will be payable to appellant No. 1 Smt. Raj Bala, for the benefit of all the four claimants and so the draft of total amount due should be made and paid in favour of Smt. Raj Bala by the respondents within three months from today or else 12% simple annual interest will be payable to the claimants on the remaining principal amount till realisation. The appeal stands disposed of as indicated above. Copy of this judgment be sent to the concerned Motor Accident Claims Tribunal immediately along with record.