

(2012) 09 RAJ CK 0010

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No's. 1999 and 2110 of 2012

Raj. State Road Transport Corporation

APPELLANT

Vs

Smt. Santoshi Devi and Others
 Santoshi Devi and
Others Vs Raj. State Road Transport Corporation and Another

RESPONDENT

Date of Decision : 11-09-2012

Acts Referred:

Motor Vehicles Act, 1988 — Section 173
Penal Code, 1860 (IPC) — Section 279, 304A, 337

Citation : (2013) 2 CDR 653

Hon'ble Judges : M.C. Sharma, J

Bench : Single Bench

Advocate : Deepak Goyal, in Appeal No. 1999 of 2012 and Mr. Harsh Saini, in Appeal No. 2110 of 2012, for the Appellant; Deepak Goyal, in Appeal No. 2110 of 2012 and Mr. Harsh Saini, in Appeal No. 1999 of 2012, for the Respondent

Final Decision : Dismissed

Judgement

M.C. Sharma, J.—Rajasthan State Road Transport Corporation (registered owner of vehicle No. RJ 18 P 1999) (in short RSRTC) has filed this appeal under Sec. 173 of the Motor Vehicles Act against the award dated 13.3.2012 passed by Judge, Motor Accident Claims Tribunal, Sri Madhopur (in short MACT) in Claim Case No. 78/11 (41/09) whereby the claim petition filed by the claimants was allowed and they were awarded compensation in the amount of Rs. 5,62,000/- and the claimants have filed the appeal for enhancement of the compensation. Since these two appeals arise from the award dated 13.3.2012, it will be proper for this Court to decide the appeals by this common order. The facts have been set out in the impugned award and hence I am not repeating the same here except wherever necessary.

2. Brief facts of the case are that on 10.11.2008 at 7.30 p.m. Satyanarain deceased was coming from Kawant to Kardaka in Jeep No. RJ 21 C 5282. The jeep was being driven by himself. Near power house one Roadways Bus No. RJ

18 P 1999 which was driven by the respondent No. 2 rashly and negligently and hit the jeep which was on correct side of the road. In result the deceased got injuries and succumbs to injuries. FIR was registered at PS Thoi for offence under Secs. 279 and 337 IPC against the driver of the Bus. After investigation charge sheet was filed against the driver of the Bus for offence under Secs. 279 and 304-A IPC. The claimants filed claim petition and the appellant RSRTC filed reply to the claim petition denying the allegations made in the claim petition. It was stated that the bus driver was not negligent. The accident occurred due to negligence of deceased. On the basis of the pleadings of the parties the MACT passed the award allowing compensation in the amount of Rs. 5,62,000/- to the claimants. The claimants filed the appeal for enhancement of the compensation and the appellant RSRTC filed the appeal challenging the award awarding compensation to the claimants.

3. The appellant RSRTC in its appeal submitted that the MACT failed to consider the material and evidence brought on record in its true and legal perspective and the award has been passed in a cursory manner. The MACT has not considered the fact that the claimants have not produced any witness to prove Ex. 13 to 21 regarding expenditure on repairing of the jeep and hence Rs. 60,000/- awarded in the head of jeep damaged is not proved thus the award is liable to be set aside in respect of awarding compensation towards jeep. The MACT committed a serious error in awarding Rs. 5,62,000/- compensation which is on higher side. The MACT also has committed mistake in not believing the statement of NAW 1 Sri Dhar only because there was no supporting evidence of the witnesses. The witness was driver of the bus who was the best person for stating regarding how the accident occurred and who was at fault. The witness clearly stated that the accident occurred due to negligence of the deceased.

4. Mr. Harsh Saini, learned counsel appearing for the claimants has argued that the MACT wrongly assessed the income of the deceased as Rs. 3000/- per month whereas as per evidence available on record the deceased was earning Rs. 12,000/- per month, he was a driver and owner of jeep and earning Rs. 5,500/- per month. He was also doing agricultural work and due to this he was earning Rs. 3,000 to Rs. 5,000 per month. From both the work he was earning Rs. 12,000/- per month in support of the income the claimants also filed oral evidence. There is no rebuttal regarding income of the deceased and considering this aspect the income of the deceased should have been assessed as Rs. 12,000/- per month. The MACT illegally deducted 1/4th share towards self expenses whereas considering the total number of dependents only 1/10th share is deductible. The MACT awarded 8 percent interest but looking to the present trends same should be at 12 per cent per annum.

5. I have heard the learned counsel for the appellant RSRTC and the claimant-appellants. The MACT passed the award dated 13.3.2012 after hearing the counsel for all the parties including the appellants. The driver of the bus was rightly held negligent in driving the Bus and on account of which the accident

took place. The MACT in detail after considering the evidence on record decided the issues in favour of the claimants. Looking to the evidence available on record the MACT rightly computed the income of the deceased to be Rs. 3,000/- and out of it one fourth was deducted the expenses to be incurred by the deceased on self and applying the multiplier of 18 the MACT awarded compensation in the amount of Rs. 4,86,000/- towards the income of the deceased Rs. 14,000 were awarded towards love and affection and Rs. 2,000 were awarded towards funeral expenses. Looking to the Ex. 13 to 21 the MACT rightly awarded Rs. 60,000/- towards the expenses incurred on the jeep for repairs. In this manner Rs. 5,62,000/- was awarded. This amount cannot be said to be excessive. The claimants are not entitled for any further enhancement.

6. I am in agreement with the findings recorded by the MACT. The findings recorded by the MACT cannot be said to be perverse. The award passed by the MACT is just and proper and no interference is called for in the award passed by the MACT. The appeals filed by the RSRTC and the claimants being devoid of merit stand rejected. With the above observations the misc. appeals stand rejected. The stay application also stands rejected.