(2012) 09 RAJ CK 0041

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 609 of 2004

Rajasthan State Road Transport Corporation	APPELLANT
Vs	
Chhitar and Others	RESPONDENT

Date of Decision : 24-09-2012

Acts Referred:
Penal Code, 1860 (IPC) — Section 279, 304A, 337

Citation : (2013) 1 CDR 394

Hon'ble Judges : Mahesh Chandra Sharma, J

Bench : Single Bench

Advocate : Virendra Agarwal, for the Appellant; J.P. Gupta for Ashok Kumar driver of the Bus in SBCMA No. 581 and 586 of 2004, for the Respondent

Final Decision : Dismissed

Judgement

Mahesh Chandra Sharma, J.—The Rajasthan State Road Transport Corporation (in short RSRTC) has filed the above these four appeals against the common award dt. 20.12.2003 passed by the Judge, Motor Accident Claims Tribunal, Beawar (in short MACT) in Claim Cases Nos. 482/2000, 479/2000, 480/2000 and 478/2000 whereby the claim petitions filed by the claimants were allowed and they were awarded compensation in the amount of Rs. 3,74,000/-, Rs. 3,75,000/-, Rs. 5,28,000/- and Rs. 2,76,000/-, respectively. It will be proper for this Court to decide these 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 26.7.2000 deceased Heeralal, Dhannalal, Shanker Lal, Tulsiram, Bhanwar Lal and claimants Ratan Lal and Chhaganlal started for Pisangan by Jeep No. RJ 01 C 5279 and when they reached Moja Gagwana near Raj Hotel, Bus No. RJ 14 P 3312 coming from Gagwana hit the jeep from wrong side and on account of which Gheesalal, Dhanna Lal, Shaker Lal, Tulsiram and Bhanwar Lal died on the spot and Ratan Lal and Chhaganlal received injuries. First Information Report No. 78/2000 was lodged at Police

Station Gagel for the offence under Secs. 279, 337 and 304-A IPC and thereafter charge sheet was filed. The claimants filed claim petitions before the MACT Beawar. The respondent No. 2 Raj. State Road Transport Corporation filed its reply. The MACT framed seven issues. After recording the statements of the witnesses and exhibiting documents, the MACT passed award dt. 20.12.2003 awarding compensation mentioned above. Against the award of compensation by the MACT, the RSRTC preferred these four appeals against the claimants.

3. Common arguments of the learned counsel for the RSRTC in all the four appeals is that the findings regarding issues 1 to 3, 4a and 4b are absolutely perverse and contrary to the record. The MACT committed serious error in holding that accident in question occurred due to sole negligence of the driver of the RSRTC. It has been argued that there is ample evidence on record that accident occurred due to sole negligence of the jeep driver, who has not been impleaded as party to the claim petition and the MACT did not care to see that the bus is coming from the opposite direction and the jeep appeared suddenly in front of the bus. The learned counsel has argued that it has come on record that the driver has tried his best to avoid the accident but the fact is that the jeep driver came out of sudden in front of the bus and as such there was no time left with the driver to avoid the accident and in such circumstances, the contributory negligence of the jeep driver cannot be ruled out and the compensation impugned deserves to be reduced accordingly. The MACT while deciding the issues 2 and 5 has awarded excessive amount as compensation which cannot be said justified looking to the facts of the case. There was no evidence whatsoever on record to show the income of the deceased and the claimants have failed to produce any documentary evidence whatsoever. The income assessed is on higher side. The award passed by the MACT is very excessive looking to the facts of the case and as such deserves to be reduced. The interest 9% per annum is arbitrary which cannot be more than 6% per annum. The claimant-respondents have not put in appearance. The driver of the Bus has put in appearance through his advocate Mr. J.P. Gupta, who has supported the arguments of the RSRTC.

4. I have heard the learned counsel for the RSRTC. I have also gone through the award passed by the MACT. In relation to issue No. 1 the MACT held as under:--

In relation to issue 4A, the MACT observed as under:

5. On the question of quantum of compensation in claim case No. 478/2000 (in SBCMA No. 611/2004), the MACT assessed the income of the deceased Heeralal, agriculturist to be Rs. 3,000/- per month and yearly Rs. 36,000/-. Out of which Rs. 12,000/- were assessed to be incurred by the deceased on himself. In this manner income of Rs. 24,000/- per annum was assessed. Since the deceased was 52 years of age the multiplier of 11 was used for assessing the compensation and in this manner a sum of Rs. 2,64,000/- was assessed. For funeral charges Rs. 2,000/- was determined. For love and affection of his wife a sum of Rs. 5,000/- was assessed. For love and affection of children Rs. 5,000/- was assessed. In this manner total Rs. 2,76,000/- was assessed as

compensation for the death of Heeralal. This amount cannot be said to be excessive.

6. On the question of quantum of compensation in claim case No. 480/2000 (in SBCMA No. 586/2004), the MACT assessed the income of the deceased Shankerlal, who was working as Tractor Compressor to be Rs. 5,000/- per month yearly Rs. 60,000/-. Out of which Rs. 20,000/- were assessed to be incurred by the deceased on himself. In this manner income of Rs. 40,000/- per annum was assessed. Since the deceased was 50 years of age the multiplier of 13 was used for assessing the compensation and in this manner a sum of Rs. 5,20,000/- was assessed. For funeral charges Rs. 2,000/- was determined. For love and affection of his wife a sum of Rs. 5,000/- was assessed. For love and affection of child Rs. 1,000/- was assessed. In this manner total Rs. 5,28,000/- was assessed as compensation for the death of Shankerlal. This amount cannot be said to be excessive.

7. On the question of quantum of compensation in claim case No. 479/2000 (in SBCMA No. 581/2004), the MACT assessed the income of the deceased Dhannalal, agriculturist to be Rs. 3,000/-per month and yearly Rs. 36,000/-. Out of which Rs. 12,000/- were assessed to be incurred by the deceased on himself. In this manner income of Rs. 24,000/- per annum was assessed. Since the deceased was 43 years of age the multiplier of 15 was used for assessing the compensation and in this manner a sum of Rs. 3,60,000/- was assessed. For funeral charges Rs. 2,000/- was determined. For love and affection of his wife a sum of Rs. 5,000/- was assessed. For love and affection of children Rs. 6,000/- was assessed. For the love and affection of son Dhannalal father and mother were awarded Rs. 2,000/- In this manner total Rs. 3,75,000/- was assessed as compensation for the death of Dhannalal. This amount cannot be said to be excessive.

8. On the question of quantum of compensation in claim case No. 482/2000 (in SBCMA No. 609/2004), the MACT assessed the income of the deceased Tulsiram, agriculturist to be Rs. 2,500/-per month and yearly Rs. 30,000/-. Out of which Rs. 10,000/- were assessed to be incurred by the deceased on himself. In this manner income of Rs. 20,000/- per annum was assessed. Since the deceased was 25 years of age the multiplier of 18 was used for assessing the compensation and in this manner a sum of Rs. 3,60,000/- was assessed. For funeral charges Rs. 2,000/- was determined. For love and affection of his wife a sum of Rs. 5,000/- was assessed. For love and affection of children Rs. 5,000/- was assessed. For the love and affection of son Dhannalal father and mother were awarded Rs. 2,000/- In this manner total Rs. 3,74,000/- was assessed as compensation for the death of Tulsiram. This amount cannot be said to be excessive.

9. The interest awarded is also not excessive. There is no perversity in the common award passed by the MACT. The appeals filed by the RSRTC deserve to be rejected. These four appeals being devoid of merit stand dismissed. The stay

applications also stand dismissed.