
(2014) 07 GAU CK 0013
In the Gauhati High Court
Case No : M.A.C. Appeal No. 2 of 2014

Ramnghakthari	Vs	APPELLANT
H. Lalhmunliana		RESPONDENT

Date of Decision : 01-07-2014

Acts Referred:

Citation : (2014) 4 ACC 382 : (2015) ACJ 1819

Hon'ble Judges : Lanusungkum Jamir, J

Bench : Single Bench

Advocate : Zochhuana, Lalchhanliana Khinagte, Melody L. Pachuau, Mary Lalruatkimi Khiangte and K. Vapawngia, Advocate for the Appellant

Judgement

Lanusungkum Jamir, J.—The appellants are the wife and daughter of the late Sh. Laltlanthanga who died in a vehicle accident at Mualpui, Aizawl, Mizoram on 18th August, 2012. The deceased was a Stone Mason earning about Rs. 400 per day and while he was working at World Bank Road, Mualpui, Aizawl on 18th August, 2012 at around 4.40 p.m., he was run over by a Truck bearing Registration No. MZ01/H-4142 which was insured with the respondent No. 2. The appellants as claimant had filed claim petition before the learned Motor Accident Claims Tribunal, Aizawl, Mizoram by way of MACT Case No. 11/2013. The learned Tribunal after hearing parties and adducing evidence had passed judgment and award dated 28th October, 2013 by awarding Rs. 7,10,440 along with Simple Interest thereon at 6% to be paid by the respondent No. 2 i.e. Oriental Insurance Company Ltd., Aizawl Branch, Aizawl. Being aggrieved by the award, the appellants are before this Court for enhancement of the same. Heard Mr. Lalchhanliana Khiangte, learned Counsel appearing for the appellants. None appears for the respondents.

2. On 4th March, 2014 notice on respondent Nos. 1 and 2 was deemed to be complete. On 27th March, 2014, this Court had directed that if the respondents are not represented by the next returnable date, ex parte hearing would be proceeded against them. On 28th April, 2014, none represented the

respondents. Today when the matter was called up, none appears for the respondents again. Accordingly, hearing is proceeded ex parte against the respondents.

3. The learned Counsel appearing for the appellants submits that the deceased was working as Stone Mason and he was earning about Rs. 400 per day which was already proved before the learned Tribunal. However, the learned Tribunal had assessed Rs. 240 only as daily income and the working days was calculated as 21 days. Further submissions is made by the learned Counsel for the appellant that the learned Tribunal had already filed to calculated future prospect of 30% of the total income. He also submits that the interest payable on the awarded amount i.e. 6% is also not in terms of the direction of the Hon'ble Supreme Court as well as of this Court. Under the circumstances, he submits that the present petition has to be allowed by enhancing the award.

4. After perusing the record as well as the other materials available on record, this Court is of the opinion that as per the ratio laid down in the case of Santosh Devi Vs. National Insurance Company Ltd. and Others, , at paragraph 14 therein, 30% of the income has to be added toward the future prospect. Further, the income of the deceased should have been assessed at the rate of Rs. 300 per day and also by taking the total working days to be 25 days in a month.

5. In view of the decision of the Supreme Court in the case of Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, , the awarded amount made by the learned Tribunal is hereby enhanced as under:

The interest rate is also enhanced to 9%. Accordingly, the respondent No. 2 i.e. Oriental Insurance Company Ltd. shall be liable to pay Rs. 15,51,000 as compensation award with interest at the rate of 9% from the date of filing till final realization.

6. Mr. Lalchhanliana Khiangte, learned Counsel appearing for the appellants submits that the respondent No. 2 had also deposited a Cheque of Rs. 7,10,400 before the Presiding Officer to Motor Accident Claims Tribunal, Aizawl, Mizoram on 3rd March, 2014. He also submits that the said amount has been withdrawn by the appellants.

7. In view of the above, the respondent No. 2 shall be liable to pay Rs. $(15,51,000.00 - 7,10,400.00) = \text{Rs. } 8,40,600$ along with interest to the appellants. However, it is seen that while making the deposit of Rs. 7,10,400 before the learned Motor Accident Claims Tribunal, Aizawl, the respondent No. 2 has not paid the interest amount. The respondent No. 2 shall therefore be liable to pay the interest at the rate of 9% from the date of filing the claim petition till realization in full.

The respondent No. 2 is directed to pay the enhanced remaining amount of Rs. 8,40,600 along with interest @ 9% on the whole enhanced amount of Rs. 15,51,000 from the date of filing of the claim petition till realization in full. This

shall be done within a period of 1 (one) month from the date of receipt of a certified true copy of this order by the respondent No. 2 which shall be deposited before the Presiding Officer, MACT Act, Aizawl.

8. The compensation awarded shall be equally shared by the wife and the minor child of the deceased. The share of the minor child shall be kept in a fixed deposit in any nationalized Bank until she attains majority. With the above observation and direction, this appeal is allowed.