

(2008) 04 RAJ CK 0009
In the Rajasthan High Court

Rashmi Verma (Smt.) and Others

APPELLANT

Vs

Deewan Singh and Others

RESPONDENT

Date of Decision : 23-04-2008

Acts Referred:

Citation : (2008) 4 RLW 3402

Hon'ble Judges : Mohammad Rafiq, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mohammad Rafiq, J.—Heard learned Counsel for the parties.

2. Shri Sandeep Mathur, learned Counsel for the appellants has argued that the Tribunal has wrongly applied the multiplier of 15 whereas the age of the deceased was 34 years and 8 months at the time of accident. Had the correct multiplier been applied, the appellants would have been entitled to additional compensation of Rs. 2,80,000. Learned Counsel argued that merely because the parents of the appellants were also claimants would not make any difference as to the applicability of the correct multiplier. Learned Counsel therefore submitted that even if other aspects of the award are maintained, the multiplier should be raised from 15 to 17 as per Second Schedule appended to Motor Vehicles Act, 1988 and accordingly the quantum of compensation should be increased upward.

3. Shri J.P. Gupta, learned Counsel for the respondent opposed the appeal and submitted that the learned Tribunal has taken into consideration the fact that age of the father of the deceased who was also one of the claimants was 65 years and mother was 57 years who was also claimant and that her widow was given compassionate , appointment by the bank and the Tribunal by taking into consideration these facts somewhat reduced the multiplier. The award does not call for any interference. Learned Counsel for the respondent further argued that even for the actual income of Rs. 11,500/- the Tribunal has calculated the income taking into consideration the future prospects and on that basis while

deducting 1/3rd for expenses towards medicines has made the calculation on 2/3rd income which he would have contributed to the family.

4. Shri Sandeep learned Counsel for the appellants at this stage cited the judgment of division bench of this Court in Smt. Kalli @ Kalyani and Ors. v. Indra Raj Bairwa and Ors. 2004 WLC 789 and Smt. Chander Kanta and 5 Ors. v. Ashfak Ahmad and Ors. 2004 WLC 791 and argued that this Court in the aforesaid cases while doubling the income on account of future" prospects yet applied the multiplier as per Schedule appended to the Act of 1988.

5. Having heard the learned Counsel for the appellants and perused the impugned award, I Find that the learned Tribunal has observed that the age of the deceased in the claim petition was mentioned at 36 years. Ex. 17 which was certificate of Central Board of Secondary Education indicated his date of birth to be 2.8.1967 and " according to that, on the date of accident, his age would have been 35 and a half year. The learned Tribunal on that basis further observed that normally the multiplier of 16 should be applied in such case as per Second Schedule appended to the Act of 1988 but taking into consideration the fact that the wife of the deceased was provided appointment in the bank in which her husband was serving and that her mother and father who were other claimants aged 57 years and 65 years respectively and that his father Dinesh Kumar Verma was a retired Assistant Commissioner, Central School and was recipient of pension, therefore, the multiplier of 16 was reduced to only 15. The Supreme Court in recent judgment of Ramesh Singh and Another Vs. Satbir Singh and Another, has observed, though in the context of a death of young man, that in such death if a man died leaving behind aged persons who would not survive long enough to match with the higher multiplier provided by Second Schedule and the low life expediency of the claimants, the Court can balance such higher multiplier against the low life expediency of the parents.

6. In the present case, out of five claimants, two of the claimants are respectively 57 and 65 years. Additionally the element of dependency would have to be adjusted against the facts that the wife of the deceased has been provided compassionate appointment by the bank in which the deceased was serving and that the father of the deceased was a recipient of pension. The Tribunal In my considered view has only marginally reduced the multiplier from 16 to 15 and even If the argument of the counsel for the appellants Is accepted that as on the date of accident, the deceased had yet not completed 38 years and multiplier of 17 ought to have been adopted, even then It Is a reduction of multiplier of 17 to only 15.

I therefore do not find any infirmity in the award of the learned Tribunal.

7. The appeal is dismissed.