

(2014) 04 RAJ CK 0006

In the Rajasthan High Court

Case No : Civil Misc. Appeal No. 434 of 2014

Reliance General Insurance Co. Ltd.

APPELLANT

Vs

Surja and Others

RESPONDENT

Date of Decision : 10-04-2014

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2015) 2 CDR 645

Hon'ble Judges : Sandeep Mehta, J

Bench : Single Bench

Advocate : T.R.S. Sodha, Advocates for the Appellant; R.S. Mankad, Advocates for the Respondent

Judgement

Sandeep Mehta, J.—Heard learned counsel for the parties. The instant appeal has been referred by the appellant Reliance General Insurance Company Ltd. against the judgment and award dt. 10.1.2014 passed by the learned Motor Accident Claims Tribunal, Udaipur in Motor Accident Claim Case No. 501/2011 whereby whilst accepting the claim application filed by Smt. Surja for the death of her son Ashok, she was awarded a total compensation of Rs. 6,96,000/-.

2. The facts in brief are that the respondent No. 1, mother of the deceased Ashok, filed the claim petition under Sec. 166 of the Motor Vehicles Act before the Tribunal claiming compensation on account of his death in a road accident. It was stated in the claim petition that Shiva @ Shivram, Ashok, Leela, Ramesh, Lalu Ram, Devilal, Hakra and Fatehlal @ Fatta were proceeding in a Jeep No. RJ-27/TA-0584 from Kaya Fala Chowki. At that time, a Trailer No. RJ-27/GA-5327 (owned by respondent Mohd. Noor and insured by the appellant) being driven in rash and negligent fashion by its driver Narulal came from behind and collided with the jeep causing the death of Shivram and Ashok Kumar at the spot and causing injuries to the other occupants in the jeep. Various affected persons filed 8 claim applications filed under Sec. 166 of the Motor Vehicles Act before the learned Tribunal. In the claim application No. 501/2011 out of which the instant

appeal arises, the claimant/respondent No. 1 claimed compensation on various grounds. The Tribunal discarded the evidence of the claimant regarding the projected income of the deceased and as against the averments in the claim that the deceased was earning a sum of Rs. 6,000/- per month by working as skilled labourer, the standard of minimum wages was applied and the deceased was held to be earning Rs. 4,050/- per month. The multiplier of 18 was applied by the Tribunal holding the age of the deceased to be 18 years on the date of accident. 50% enhancement in the income was added by way of future prospects. The deduction of half (1/2) was made from the gross income towards personal needs and expenditure of the deceased. The claimant mother was awarded Rs. 10,000/- towards loss of service. Rs. 25,000/- was awarded for funeral expenses, Rs. 3,000/- was awarded for transportation of body and Rs. 1,500/- was awarded as loss of estate. Accordingly, the total compensation of Rs. 6,96,000/- was awarded to the claimant. 9% interest was applied to the awarded amount from the date of filing of the claim petition.

3. Learned counsel for the appellant-insurance company submits that the compensation awarded is highly excessive and thus should be reduced. He principally attacked the award on the ground of multiplier applied by the Tribunal and the addition in the income of the deceased by way of future prospects. He submitted that the multiplier to be applied in assessing the claim Filed on account of death of a bachelor should be in reference to the age of the claimant and not in reference to the age of the victim. The second argument advanced by the learned counsel for the appellant was regarding the application of addition in the income of the deceased by applying the principles of future prospects. He contends that no addition was permissible in view of the authoritative pronouncement made by the Hon"ble Supreme Court in the case of Reshma Kumari and Others Vs. Madan Mohan and Another, . He thus urges that the compensation awarded be reduced suitably.

4. Per contra, learned counsel for the respondent/claimant submits that the Tribunal rightly applied the multiple in reference to the age of the deceased. He contends that the Hon"ble Apex Court considered and laid the controversy to rest beyond all manner of doubt in the cases of (1) Amrit Bhanu Shali and Others Vs. National Insurance Co. Ltd. and Others, and (2) Reshama Kumari (supra), wherein it was conclusively held that the multiplier in cases involving death of a bachelor has to be applied in referenced to the age of the deceased and not in reference to the age of the claimant. He further submitted that as the deceased was a daily wager and as his income was assessed by applying the minimum wages, addition in his income by way of future prospects is justified because the minimum daily wages as prescribed by the State Government from time to time have gone up by 130% during the course of last ten years.

5. I have heard and considered the arguments advanced at the Bar and perused the impugned judgment.

6. The Tribunal whilst assessing the award held the income of the deceased to be

a bare Rs. 4,050/- per month applying the principle of minimum wages contrary to the averments made in the claim that the deceased was earning Rs. 6,000/- per month by working as a skilled labourer. 50% rise in income by future prospects was applied by the Tribunal applying the proposition laid down in the case of Rajesh and Others Vs. Rajbir Singh and Others, . Half of the income was deducted towards personal needs and expenditure and rightly so, in my opinion. The claimant was awarded to Rs. 10,000/- under the head of loss of love and affection. Rs. 25,000/- was awarded for funeral expenses, Rs. 3,000/- was awarded for transportation of body and Rs. 1,500/- was awarded as loss of estate. The multiplier of 18 was applied looking to the age of the deceased being 18 years. The total compensation of Rs. 6,96,000/- was awarded to the claimants.

7. In the opinion of this Court, the criterion adopted by the Tribunal for assessing the award is absolutely just and proper. The issue regarding applicability of the multiplier in the case of death of bachelors is no longer in controversy in view of the decisions rendered by the Hon''ble Apex Court in the cases of (1) Amrit Bhanu Shah (supra) and (2) Reshama Kumari (supra). Thus, this Court is of the opinion that no error, illegality or perversity was committed by the Tribunal in calculating and assessing the award in favour of the claimant.

8. Accordingly, the appeal being bereft of any merit, is hereby dismissed.

9. Stay petition is also dismissed. There shall be no order as to costs.