

(2019) 01 RAJ CK 0050

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 692 Of 2018

Rita Vig And Ors

APPELLANT

Vs

Surendra Singh Rathore And Ors

RESPONDENT

Date of Decision : 07-01-2019

Acts Referred:

Motor Vehicles Act, 1988 — Section 166, 168, 173

Citation : (2019) 01 RAJ CK 0050

Hon'ble Judges : P.K. Lohra, J

Bench : Single Bench

Advocate : Aakash Kukkar

Final Decision : Dismissed

Judgement

Appellant-claimants have preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 (for short, 'Act') seeking enhancement of compensation quantified and awarded by Motor Accident Claims Tribunal, Sriganganagar (for short, 'learned Tribunal') by its judgment and award dated 23.11.2017. Learned Tribunal, by the impugned judgment and award, partly allowed claim petition of the appellant under Section 166 of the Act and awarded compensation to the tune of Rs.18,22,430/-on account of death of Aashish Kumar in road accident which occurred on 28.05.2012.

It is, inter-alia, averred in the claim petition that on the fateful day when deceased Aashish Kumar, after appearing in his examination paper, was travelling on motorcycle from Baba Farid College, Bhatinda to Sriganganagar, his motorcycle collided with Truck bearing No.RJ-27-G-6805. It is further pleaded that accident occurred due to rash and negligent driving of the truck and as a consequence of accident deceased suffered grave and serious injuries and eventually succumbed to the injuries. After the incident, first information report was lodged with the concerned police station and the driver of the truck was charge-sheeted. In order to claim compensation under different heads, it is inter-alia, averred by the appellant that deceased was 21 years old unmarried and

earning Rs.15,000/- per month by carrying out vocation of tuition.

The claim petition is contested by driver and owner of the vehicle as well as Insurer.

On the basis of pleadings, learned Tribunal settled three issues for determination. Parties led their evidence. Learned Tribunal, at the threshold, proceeded to decide Issue No.1 and on the basis of evidence and other materials available on record found that cause of accident was rash and negligent driving of the truck. The second issue, which was settled on the basis of written plea of the Insurer, in want of any proof about violation of terms of the insurance policy, came to be adjudicated against it. Adverting to Issue No.3 for quantum of compensation, learned Tribunal, on the basis of available material, found income of the deceased to the tune of Rs.1,43,050/- per annum and after adding 40% for future prospects and applying multiplier of 18, assessed compensation for loss income of loss of dependency to the tune of Rs.18,02,430/-. Besides that, under some other heads also compensation was awarded. Learned Tribunal, while considering the status of the deceased single, as he was unmarried, deducted 50% of the income for personal expenses.

Learned counsel for the appellant has strenuously urged that in spite of the fact that income tax returns were available, learned Tribunal has reduced the income from Rs. 1,51,050/- to 1,43,050/- per annum. It is also argued by learned counsel that, in the backdrop of facts and circumstances, 50% deduction for personal expenses of the deceased was not proper.

I have bestowed my consideration to the arguments and also examined the impugned judgment and award.

Upon consideration of the impugned judgment and award, in my opinion, assessment annual income of the deceased by learned Tribunal is just and proper and mere minor deduction in the income cannot be construed as a ground for interfering with the impugned judgment and award.

In totality, the amount of compensation awarded by learned Tribunal is satisfying the criteria of just and reasonable compensation envisaged under Section 168 of the Act. The argument of learned counsel, that 50% deduction for personal expenses of the deceased is improper, appears to be quite alluring but bereft of any substance. The said adjudication by the learned Tribunal is based on authoritative pronouncement of Supreme Court in case of Sarla Verma Vs. Delhi Transport Company [(2009) 6 SCC 121].

In totality, I am unable to find any manifest error in the impugned judgment and award so as to grant any indulgence to the appellant for enhancement of compensation.

Consequently, the appeal fails and the same is hereby rejected.