

(1986) 10 RAJ CK 0020
In the Rajasthan High Court

R.S.R.T.C.

APPELLANT

Vs

Manumati Mahamia and Others

RESPONDENT

Date of Decision : 14-10-1986

Acts Referred:

Motor Vehicles Act, 1988 — Section 110CC

Citation : (1987) 1 ACC 122 : (1988) 1 RLW 206

Hon'ble Judges : G.M. Lodha, J

Bench : Single Bench

Judgement

G.M. Lodha, J.—This is an appeal by the Rajasthan State Road Transport Corporation against the award of compensation in a case of accident to the widow and minor children of the deceased.

2. No one has appeared on behalf of the Corporation to support and argue this appeal.

3. Mr. G.C. Mathur has appeared on behalf of widow Majumati and the minor children. Mr. Mathur submits that not only this appeal should be dismissed but the interest should be increased from 6 per cent to 12 per cent as the Hon'ble Supreme Court in the decision of Smt. Chameli Wati and Another Vs. Municipal Corporation of Delhi and Others, decided that in case of compensation for accident the rate of interest should be 12 per cent. Mr. Mathur submits that even though the cross objection has not been filed by the widow and minor children yet this court can enhance the rate of interest by resort to Order 41 Rule 33 C.P.C. and even otherwise. He relies upon the two decisions of this court. In Rajasthan State Road Transport Corporation v. Kapoori Bai S.B. Civil Misc. Appeal No. 144 of 1973 decided on July 31, 1984, this court has taken the view that the Tribunal should have awarded interest according to Section 110-(CC) the wordings of this section are that where any court or Tribunal allows a claim of compensation made under this Chapter such court or Tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at the rate and from such date not earlier than the date of making the claim as it may

specify in that behalf.

4. This court then opined that in cases of compensation the interest should be allowed and further that even in the absence of cross objections, it is the duty of the court whether a cross objection is filed or not filed to see that the award is made in accordance with the statutory provisions and the interest on compensation should be awarded from the date of making the claim as may be fixed by the learned Tribunal.

5. The High Court exercises discretion in case of favour of the claimants and observed that it is the duty of the court to see that the claimants are entitled to interest if the person who is to pay the compensation did not pay either to the claimant or deposit in the court within the reasonable time.

6. In another case *Roop Narain v. Avtar Singh D.B.* Civil Special Appeal No. 20 of 1985 decided on August 10, 1986, the observations mentioned above were noticed and the Division Bench held that when any claim is allowed then the interest should be allowed. It was emphasised that it is the duty of the court to allow interest as it has been permitted by statutory provision.

7. In my opinion after the judgment of the Hon''ble Supreme Court mentioned above in *Chameliwati v. Delhi Municipal Corporation* where Hon''ble Justice P.N. Bhagwati as he then was sitting with Hon''ble Justice A.N. Sen and Justice D.P. Madan observed that the interest should be 12 per cent u/s 110(CC). It was observed that the discretion conferred must be exercised judiciously on the basis of the facts and circumstances of the particular case and the interest allowed should be 12 per cent from the date of application till the date of payment. It is well known that in matters of compensation for accident the increasing tendency of the courts and Tribunals is to allow compensation liberally by construing the legislation as beneficial one to the unfortunate victims dependents widow, and minor children who suffered on account of the hazards of automobiles where precious life are lost. In such circumstances Mr. Mathur's prayer for increase of the interest is allowed.

8. Consequently the award passed by the Tribunal is confirmed and further modified to this extent that the interest would be 12 per cent from the date of claimant's application till the date of realisation and would be paid by the non-petitioners who has been held liable and responsible by the Tribunal to pay compensation. There would be no order as to costs. The appeal is dismissed with the above modifications.