

(1995) 03 RAJ CK 0051

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 315 of 1994

R.S.R.T.C.

APPELLANT

Vs

Rameshwari and Others

RESPONDENT

Date of Decision : 31-03-1995

Acts Referred:

Motor Vehicles Act, 1988 — Section 168

Citation : (1996) ACJ 1143 : AIR 1996 Raj 105 : (1995) 2 WLC 403 : (1995) 1 WLN 627

Hon'ble Judges : R.S. Kejriwal, J

Bench : Single Bench

Advocate : Virendra Agarwal, for the Appellant; Jainendra Jain, for the Respondent

Final Decision : Partly Allowed

Judgement

R.S. Kejriwal, J.—This Miscellaneous Appeal u/s 173 of the Motor Vehicles Act, 1988, (hereinafter referred to as the "Act") has been directed against the Award, dated 17-1-1994, passed by Judge, Motor Accident Claims Tribunal Bharatpur, in Motor Accident Claim Case No. 180/91, awarding Rs. 4,80,000/- to the claimants on account of loss of dependency; Rs. 40,000/- on account of deprivation of love and affection and Rs. 5,000/- on account of physical and mental agony. The Tribunal found that the deceased Vijay Singh, at the time of accident was 22 years of age. He was doing business of selling milk and also cultivation. According to the statement of A.W. 1 Rameshwari, widow of deceased and A.W. 2 Khillo, mother of the deceased, the income of the deceased was Rs. 2,000/- p.m. Deceased used to spend 1/4 amount of his income on himself and 3/4th income on his family. The learned Judge determined the amount of dependency at the rate of Rs. 12,000/- per year and after applying multiplier of 40 awarded compensation of Rs. 4,80,000/- on account of loss of dependency. The only submission of the counsel for the appellant is that the Award of compensation is on higher side and contrary to the settled law. His submission is that in case Rs.

1,20,000/- are deposited in any Nationalised Bank, the claimants will get Rs. 1,000/-p.m. by way of interest and the corpus will remain in tact. The learned Judge of the Tribunal wrongly applied multiplier of 40. It cannot be more than 10. In support of his arguments, he placed reliance on a judgment of the Apex Court, reported in General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others, : General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others,

2. On the other hand, counsel for the claimants submits that the age of the deceased at the time of his death was 22 years. The learned Judge of the Tribunal rightly applied multiplier of 40. He submits that when from the evidence of record it has been established that the income of the deceased was Rs. 2,000/- p.m. and further that the deceased used to spend Rs. 1500/- p.m. on his family, there was no question of determining loss of dependency at the rate of Rs. 1,000/- p.m. He submits that looking to the facts and circumstances of the case, compensation awarded to the claimants cannot be said to be excessive.

3. From the statements of A.W. 1 Rameshwari (Wife) and A. W. 2 Khillo (Mother) it has been proved that the income of the deceased was Rs. 2,000/- p.m. and he was spending Rs. 500/- on himself. The remaining amount was spent by him on his family and under these circumstances the loss of dependency comes to Rs. 1500/- per month and not Rs. 1,000/- p.m. as determined by the Tribunal. The deceased was doing the business of selling of milk and cultivation. It has been stated by the aforesaid witnesses that Kyali, father of the deceased is Khatedar of the agriculture-lands, which were cultivated by both Kyali and deceased. It has been further admitted by the witnesses that Bahadur aged 20 years is younger brother of the deceased Vijay Singh. There is no evidence that there were chances of increase of income of the deceased.

4. The Apex Court in General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others, , laid down the principle of applying multiplier in Accident Claim Case. Para No. 17 of the judgment reads as below:--

"17. The multiplier represents the number of years" purchase on which the loss of dependency is capitalised. Take for instance a case where annual loss of dependency is Rs. 10,000. If a sum of Rs. 1,00,000/- is invested at 10% annual interest, the interest will take care of the dependency, perpetually. The multiplier in this case works out to 10. If the rate of interest is 5% per annum and not 10% then the multiplier needed to capitalise the loss of the annual dependency at Rs. 10,000 would be 20. Then the multiplier, i.e. the number of years" purchase of 20 will yield the annual dependency perpetually."

Para No. 13 of the aforesaid judgment reads as under:--

"13. The multiplier method involves the ascertainment of the loss of dependency or the multiplicand having regard to the circumstances of the case and

capitalizing the multiplicand by an appropriate multiplier. The choice of the multiplier is determined by the age of the deceased (or that of the claimants whichever is higher) and by the calculation as to what capital sum, if invested at a rate of interest appropriate to a stable economy, would yield the multiplicand by way of annual interest. In ascertaining this, regard should also be had to the fact that ultimately the capital sum should also be consumed up over the period for which the dependency is expected to last."

5. Judging the case on the basis of law laid down by the Apex Court in the aforesaid judgment in case a sum of Rs. 2 lacs is deposited in a Nationalised Bank in Fixed Deposit, the claimants would get more than Rs. 1500/- p.m. by way of interest at the rate of Rs. 10% p.a., and the amount deposited will remain in tact in perpetually. Under these circumstances in my opinion the amount awarded to the claimant-respondents on account of loss of dependency is too excessive.

6. Consequently, I allow the appeal in part, modify the Award dated 17-1-1994, passed by Motor Accident Claims Tribunal, Bharatpur, and reduce the amount of compensation on account of loss of dependency from 4,80,000/- to Rs. 2 lacs. The other amounts awarded by the Tribunal will remain in tact. It is further made clear that in case the respondent No. 1 Rameshwari, re-marries, she would not be entitled to any compensation and the amount of compensation awarded to her would be distributed amongst other legal heirs of the deceased in equal shares. The compensation awarded to minors would be deposited in Nationalised Bank and will remain in deposit till they attain the age of majority.