

(2013) 02 RAJ CK 0156

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No's. 62 of 2004 and 41 of 2002

RSRTC

APPELLANT

Vs

Smt. Saroj Dave and Others
 Smt. Saroj Dave and
Others Vs Gopal Singh and Another

RESPONDENT

Date of Decision : 05-02-2013

Acts Referred:

Citation : (2013) 02 RAJ CK 0156

Hon'ble Judges : Mahesh Chandra Sharma, J

Bench : Single Bench

Advocate : Ram Kumar Sharma for RSRTC, for the Appellant; J.P. Gupta, V.V. Harit for Mr. Resham Bhargava and Gopal Singh, for the Respondent

Final Decision : Dismissed

Judgement

Mahesh Chandra Sharma, J.—Since both the misc. appeals arise out of common award, hence same are being decided by this common judgment. Both these misc. appeals have been filed against the award dated 1.10.2001 passed by the Presiding Officer, Motor Accident Claims Tribunal, Ajmer (for short "the tribunal") in claim case NO. 1342/99 (125/1996).

2. Brief facts of the case are that on 24.2.1996 Deevakar being the pillion rider sitting on his brother"s scooter RJ-01/2M/2686 and going to meet his relatives, near about 8:00 PM at Gangghati one Roadways bus bearing number RJ-14/P-1308 came with rash and negligent manner from Pushkar side, and hit the scooter, by virtue of that Deevakar injured, who was admitted in JLN Hospital, Ajmer, lost the life on 4.2.1996 during the course of treatment.

3. FIR was lodged regarding this incident. Thereafter, claimants filed claim petition before the learned Tribunal. Notices were issued. Written statement was filed. Evidence was submitted by both the parties. The issues were framed. Thereafter, the MACT after hearing both the parties passed the impugned award. Hence, this misc. appeal before this Court.

4. Learned counsel for the appellant submits that the tribunal while passing the impugned judgment/award has not considered the facts and circumstances of the case and evidence available on record in right perspective. The tribunal has committed gross error in assessing the dependency of Rs. 3,956/- per month and that too in that situation when the claimant respondent No. 1 is in service and is gainfully employed. Since the claimant respondent NO. 1 is in government employment and she cannot be said to be dependent on the deceased. The learned tribunal without taking into consideration uncertainties of life and earning capacity, physical condition of the deceased and also the personal expenditure of the deceased has erred in awarding compensation of Rs. 8,94,496/-. The amount awarded by the tribunal is also excessive and appears to giving charity which is illegal and against the settled principles of law. Thus, the impugned award passed by the tribunal be quashed and set aside.

5. On the other hand the learned counsel for the claimants submits that the award of compensation passed by the tribunal is very meager. The tribunal while passing the impugned award has not considered the facts of the case and the evidence adduced by the parties and erred in passing the very meager amount of compensation. Thus, the relief as claimed by the claimants may kindly be granted in toto.

6. I have heard learned counsel appearing for the respective parties and carefully scanned the entire material made available to me including the award passed by the tribunal.

7. In my considered view, the impugned award passed by the tribunal needs no interference of this Court.

8. In the result, both the misc. appeals are devoid of merits and stand dismissed after confirming the award dated 1.10.2001 passed by the Presiding Officer, Motor Accident Claims Tribunal, Ajmer in claim case NO. 1342/99 (125/1996). Since the main appeal has been dismissed, the stay application also stands dismissed.