
(2021) 10 RAJ CK 0076

In the Rajasthan High Court

Case No : S.B. Civil Miscellaneous Appeal No. 655 Of 2018

Sangram Singh And Others

APPELLANT

Vs

Rishal Son Of Hussain And Others

RESPONDENT

Date of Decision : 29-10-2021

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2021) 10 RAJ CK 0076

Hon'ble Judges : Rameshwar Vyas, J

Bench : Single Bench

Advocate : D.S. Udawat, Vishal Singhal

Final Decision : Partly Allowed

Judgement

Rameshwar Vyas, J

The instant appeal has been filed under Section 173 of Motor Vehicles Act against the judgment / award dated 12.10.2017 passed by the Motor Accident Claims Tribunal, Jaitaran, Pali in MACT Case No. 119/2013, whereby learned Tribunal awarded a sum of Rs.5,73,128/- as compensation.

The brief facts of the case are as under:-

Deceased Virendra Singh aged 20 years died on 10.9.2013 in a road accident. At the time of accident, he was going as pillion rider on motorcycle. A truck bearing Registration No. RJ 19 GD 6843 being driven by respondent no.1 rashly and negligently, hit the motorcycle, on account of which, motorcycle riders Amit and Virendra Singh sustained injuries. Virendra Singh succumbed to his injuries on the spot. First Information Report No. 334/2013 was registered and after investigation, police filed charge-sheet against the truck driver - respondent no.1.

Deceased was unmarried. The claim petition was filed by mother, father and elder sister of deceased. Learned Tribunal after trial awarded a sum of Rs.5,73,128/- as compensation to the claimants. Insurance Company, driver and

owner of the truck were held jointly and severely liable.

The instant appeal has been filed for enhancement of the amount of compensation on various grounds. However, during the arguments, learned counsel for the appellants raised only on two grounds. He did not insist on rest of the grounds. As per his first contention learned Tribunal committed error in not awarding any amount towards future prospects of the deceased while ascertaining income of the deceased. Secondly, learned counsel for the appellants contended that learned Tribunal awarded only Rs.15,000/- each to mother and father of deceased under the head of loss of love & affection and Rs.5,000/- for funeral expenses and Rs.2,000/- for transportation, whereas, as per judgment of the Hon'ble Apex Court in the matter of National Insurance Company vs. Pranay Sethi & Ors. : AIR 19 2017 SC 5157, in the conventional heads minimum Rs.77,000/- is awardable.

On the other hand, learned counsel for the respondents has contended that the amount of compensation awarded by learned Tribunal is just and fair and requires no enhancement.

Having regard to the rival contentions of learned counsel for the parties and after perusing the material available on record, this Court is of the opinion that learned Tribunal erred in not awarding any amount of compensation towards future prospects. At the time of accident, deceased was 20 years of age and was self employed. Hence, as per principles laid down by the Hon'ble Apex Court, 40% of the income of the deceased should be added while calculating the income of the deceased.

As per judgment by the Hon'ble Apex Court in the matter of Pranay Sethi (supra), the claimants are entitled to get Rs.77,000/- in the conventional head, which includes, loss of estate, loss of love & affection and funeral expenses after adding 10% of the sum as per the principles enunciated in the above case of Hon'ble Apex Court.

In view of above circumstances, the claimants are entitled to get compensation in the following terms:-

Annual Income

Rs. 51,792/-

After adding 40% towards future prospect (51792 + Rs. 20717)

Rs. 72,509/-

Less 1/2nd towards personal expenses

Rs. 36,255/-

Net annual loss

Rs. 36,255/-

Multiplier to be applied

18

Loss of dependency (36255 x 18)

Rs. 6,52,590/-

Add under conventional expenses (70,000 + 10%)

Rs. 77,000/-

Total compensation awardable

Rs. 7,29,590/-

Amount awarded by the Tribunal

Rs. 5,73,128/-

Consequently, the appeal is partly allowed. The award dated 12.10.2017 is modified to the extent that claimants would be entitled to a compensation of Rs. 7,29,590/- instead of Rs. 5,73,128/- as awarded by the Tribunal. On the enhanced amount of compensation i.e. Rs. 1,56,500/- (round off), the claimants would be entitled to get interest @ 6% per annum from the date of claim petition till the date of actual payment. After adjusting the amount of compensation already paid to the appellant, the outstanding amount of compensation shall be deposited by the non-claimants with the Tribunal within a period of one month from today. Amount so deposited, shall be disbursed to the claimants in terms of the order passed by the Tribunal.