(2007) 01 JH CK 0010

In the Jharkhand High Court

Sarla Singh and Others APPELLANT

Vs

National Insurance Co. Ltd. and Another RESPONDENT

Date of Decision : 24-01-2007

Acts Referred:

Citation : (2008) 1 AndhWR 57 : 2007) ACJ 2464

Hon'ble Judges : M.Y. Eqbal, J;Dilip kumar sinha, J

Bench : Division Bench

Judgement

M.Y. Eqbal and D.K. Sinha, JJ.—We have heard the learned Counsel for the parties and with their consent this appeal is disposed of at the admission stage.

2. The claimants are the appellants. They have preferred this appeal for enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Dhanbad in Compensation (MV) Claim No. 12 of 2003.

3. The facts of the case lie in a narrow compass.

4. The deceased Inderdeo Singh aged about 46 years was employed in Eastern Coalfields Limited (ECL) as General Manager. On 23.10.2002 at about 8.15 a.m.,

the deceased along with co-workers was going to Barmuri open cast project by the scooter bearing No. WB 38-D 2160. When he reached near the railway siding a dumper bearing registration No. BR 17-G 0653 dashed Inderdeo Singh and barged into a nearby house, breaking the wall and the deceased died on the spot.

5. The claimants-appellants, who are the widow and the children claimed compensation of Rs. 40,00,000 and the claim case was contested by the respondents including the insurance company.

6. The learned Tribunal after considering the payslip and the other documents recorded the finding that take-home salary of the deceased was Rs. 15,744 (rupees fifteen thousand seven hundred and forty-four) after deduction of Rs. 12,230 (rupees twelve thousand two hundred and thirty) from his total salary of

Rs. 27,974 (rupees twenty-seven thousand nine hundred and seventy-four). The Tribunal found that the annual salary was Rs. 1,88,928 (rupees one lakh eighty-eight thousand nine hundred and twenty-eight). The annual dependency was, therefore, assessed at Rs. 1,25,952 (rupees one lakh twenty-five thousand nine hundred and fifty-two) taking 2/3rd of the annual take-home salary. Tribunal adopted the multiplier theory and taking 13 years'' of purchase assessed the compensation at Rs. 16,37,376 (rupees sixteen lakh thirty-seven thousand three hundred and seventy-six).

7. The counsel for appellants assailed the impugned judgment and award on the ground, inter alia, that the Tribunal has not correctly applied the theory in assessing compensation. According to the learned Counsel compensation ought to have been assessed taking total salary of the deceased.

8. Learned Counsel further submitted that the deceased being a young man of 46 years at least 18 years'' multiplier ought to have been adopted for determining the compensation.

9. Lastly, learned Counsel submitted that interest ought to have been awarded from the date of filing of the claim petition.

10. Mr. Alok Lal, learned Counsel for the respondents, on the other hand, submitted that the Tribunal has correctly adopted the multiplier theory and assessed the compensation which is just and reasonable.

11. We are not able to agree with the first submission made by learned Counsel for the appellants that total salary should have been taken for the purpose of assessing the compensation.

12. It has been well settled that take-home salary should be the amount, which is to be taken for the purpose of assessing the compensation.

13. However, we are of the view that a multiplier of 16 should have been taken for the purpose of determining the compensation particularly when the deceased was 46 years of age and he was holding the post of General Manager and further that in the remaining period of service he would have been promoted to higher post also. If the Tribunal had assessed the compensation taking 16 years'' of purchase, the amount comes to Rs. 20,00,000 (rupees twenty lakh) which in our view should be just and reasonable compensation.

14. We, therefore, allow this appeal in part and enhance the amount of compensation from Rs. 16,37,376 (rupees sixteen lakh thirty-seven thousand three hundred and seventy-six) to Rs. 20,00,000 (rupees twenty lakh). So far as the interest is concerned, we are not inclined to interfere with the amount of interest awarded by the Tribunal.