(2004) 12 RAJ CK 0023

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 815 of 1994

Shakuntala and Others	APPELLANT
Vs	
Sharda Trade and Transport Co. and Others	RESPONDENT

Date of Decision : 06-12-2004

Acts Referred:

Citation : (2005) 1 ACC 708 : (2006) ACJ 2414 : (2006) 1 CivCC 45 : (2005) WLC 791

Hon'ble Judges : Dalip Singh, J

Bench : Single Bench

Advocate : Biri Singh, for the Appellant; Lokik Pant and G.R. Bardar, for the Respondent

Final Decision : Allowed

Judgement

Dalip Singh, J.—This appeal has been passed by the Motor Accidents Claims filed against the award dated 20.5.1994 Tribunal, Dausa (hereinafter referred to as ''the Tribunal'') in Claim Petition No. 85 of 1990 filed by the appellants for compensation on account of the death of Jhaman Lal, the husband of the appellant No, 1 who was Junior Engineer, working with the RIICO, a Government of Rajasthan Undertaking.

2. The submission of learned Counsel for the appellants is that learned Tribunal assessed the income of the deceased who was aged 34 to 35 years at the time of accident as Rs. 5,000 and after deducting Rs. 1,700 by way of personal expenses held dependency of the family and contribution towards the family as Rs. 3,300 per month. The annual dependency of the family was, therefore, assessed as Rs. 39,600. However, learned Counsel for appellants has submitted that learned Tribunal in the case of deceased aged 35 years has erred in applying the multiplier of 10 and assessed the compensation for loss of earnings as Rs. 3,96,000 only.

3. Learned Counsel for the respondents has submitted that in the case of fatal

accidents, in case, the multiplier has to be increased, the provision of the Second Schedule to Motor Vehicles Act, 1988 may be safely relied upon and not the multiplier of the balance number of years that the deceased was to remain in service should be applied assuming that the deceased would have retired at the age of 58 years and, therefore, the multiplier of 23 could not be applied in this case.

4. Having considered the rival submissions made at the Bar, I am inclined to allow this appeal to the extent that the multiplier of 10 was wrongly applied and I am in agreement with the submission of the learned Counsel for respondents that as per the provisions of Second Schedule to the Motor Vehicles Act, 1988, that in case of the deceased being in the age group of 35 to 40 years, a multiplier of 16 may be adopted. Consequently, the said amount of Rs. 39,600 being annual income requires to be multiplied by 16 and hence Rs. 39,600 x 16 = Rs. 6,33,600 (rupees six lakh thirty-three thousand and six hundred only) as compensation figure of loss of dependency of the family. From the aforesaid amount of Rs. 6,33,600 the amount of Rs. 3,96,000 (rupees three lakh ninety-six thousand only) deserves to be deducted which has been paid by the respondents to the appellants under the award. The balance amount comes to Rs. 2,37,600. The respondents would pay to the appellants an amount of Rs. 2,37,600 (rupees two lakh thirty-seven thousand and six hundred only) by way of demand draft/ crossed cheque or deposit with the Tribunal along with interest at the rate of 6 per cent per annum within a period of three months from today, w.e.f. the date of filing of the appeal, i.e., 3.8.1994. However, in case, the respondents fail to pay or deposit the said amount, the appellant would be entitled to recover the said amount along with interest at the rate of 9 per cent per annum w.e.f. the date of filing of the claim petition, i.e., 3.11.1990.

The parties shall bear their own costs.