(2011) 02 CHH CK 0045

In the Chhattisgarh High Court

Case No : Misc. Appeal No. 21 of 2006

Smt. Gomti Bai and Others — APPELLANT

Vs

Laxminarayan Vishal Sahu and Others — RESPONDENT

Date of Decision : 11-02-2011

Acts Referred:
Motor Vehicles Act, 1988 — Section 163A

Citation : AIR 2011 Chh 76 : (2011) 4 TAC 170

Hon'ble Judges : Rajeev Gupta, C.J;Rangnath Chandrakar, J

Bench : Full Bench

Judgement

Rajeev Gupta, C.J.—This is claim ants'' appeal for enhancement of the compensation awarded by the 4th Additional Motor Accident Claims Tribunal, Raipur (for short ''the Tribunal'') vide award dated 4-10-2005, passed in Claim Case No. 28/2005.

2. As against the compensation of Rs. 5,53,000/- claimed by the Appellants/ claimants, unfortunate widow, minor daughter and mother of deceased-Ganesh Ram Sahu, by filing a claim petition u/s 163-A of the Motor Vehicles Act, for his death in the motor accident on 2-5-2001, the Tribunal awarded a total sum of Rs. 87,000/- as compensation along with interest @ 6% per annum from the date of filing of the claim petition till the date of actual payment.

3. The Tribunal on a close scrutiny of the entire evidence led before it held that deceased Ganesh Ram Sahu died on account of the injuries sustained by him in the motor accident on 2-5-2001; the accident occurred due to rash and negligent driving of the driver of the offending vehicle Tractor-Trolley bearing registration Nos. M.B.S. 1243 and C..T. 8552, respectively, as the above offending vehicles Tractor-Trolley, on the date of the accident were insured with the United India Insurance Company Limited and the Insurance Company could not establish any breach of the policy conditions, the Insurance Company was liable to pay compensation to the claimants.

4. As the Respondents have not filed any appeal against the award, the above findings recorded by the Tribunal have now attained finality.

5. The Tribunal assessed the income of the deceased at Rs. 15,000/- per annum on the basis of the notional income prescribed in the Second Schedule u/s 163A of the Motor Vehicles Act. By deducting l/3rd of Rs. 15,000/- towards the personal expenses of the deceased, the claimants'' dependency was assessed at Rs. 10,000/- per annum. By multiplying the annual dependency of Rs. 10,000/- with the multiplier of 8, the compensation was worked out to Rs. 80,000/-. By awarding further sum of Rs. 7,000/- under other heads, the Tribunal awarded a total sum of Rs. 87,000/- as compensation to the claimants for the death of deceased-Ganesh Ram Sahu in the motor accident. The Tribunal further directed payment of interest on the above amount of compensation of Rs. 87,000/- @ 6% per annum from the date of filing of the claim petition till the date of actual payment.

6. Shri S. C. Verma, learned Counsel for the Appellants submitted that the Tribunal has erred in not accepting the claimants'' evidence about the income of the deceased and in assessing his income at Rs. 15,000/- per annum only; and in awarding low compensation of Rs. 87,000/-only.

7. Shri Dashrath Gupta, learned Counsel for Respondent No. 4 the United India Insurance Company Limited on the other hand supported the award and contended that as the claimants could not establish the income of the deceased as pleaded by them, the compensation of Rs. 87,000/- awarded by the Tribunal is just and proper compensation in the facts and circumstances of the case.

8. In a motor accident claim case, what is important is that, the compensation to be awarded by the Courts/Tribunals should be just and proper compensation in the facts and circumstances of the case. It should neither be a meager amount of compensation, nor a Bonanza.

9. Now we shall examine as to whether the compensation of Rs. 87,000/- awarded by the Tribunal is just and proper compensation in the facts and circumstances of the present case.

10. True, the claimants pleaded that deceased-Ganesh Ram Sahu used to earn Rs. 4,000/- per month by working as Turner in Himmat Steel Plant, Kumhari, the evidence led in that behalf was not of clinching nature. Neither any salary certificate was produced by the claimants from the said company nor any Manager or other worker of the said company was examined before the Tribunal to establish that the deceased was working in the said factory at all and was getting salary to the extent of Rs. 4,000/- per month. In this state of evidence, we do not find any fault in the approach of the Tribunal in discarding the claimants'' evidence about the income of the deceased.

11. Nevertheless, the income of the deceased assessed by the Tribunal at Rs. 15,000/- per annum in the year 2001 is certainly on the lower side and requires

reconsideration.

12. Considering that deceased Ganesh Ram Sahu was aged about 48 years, we are of the opinion that he could have easily earned Rs. 70-75/- per day even by working as an unskilled labour. We, therefore, propose to recompute the compensation taking the income of the deceased at Rs. 2,000/- per month and Rs. 24,000/- per annum.

13. By deducting the usual l/3rd of Rs. 24,000/- towards the personal expenses of the deceased, the claimants'' dependency is assessed at Rs. 16,000/- per annum.

14. The multiplier of 8 selected by the Tribunal considering the age of the deceased and the claimants, in our opinion, is appropriate and does not call for any interference.

15. By multiplying the annual dependency of Rs. 16,000/- with the multiplier of 8 the compensation works out to Rs. 1,28,000/-. The claimants are further entitled to receive Rs. 5,000/- towards funeral expenses; Rs. 5,000/- for loss of estate; and Rs. 5,000/- for loss of consortium to the widow. The claimants, thus, become entitled to receive a total sum of Rs. 1,43,000/- as compensation for the death of deceased-Ganesh Ram Sahu in the motor accident.

16. Learned Counsel for the parties submitted that with a view to avoid any possible dispute between the parties about the period for which the claimants are entitled to receive interest on the enhanced amount of compensation, the amount of interest on the enhanced amount of compensation may be quantified in this appeal itself.

17. Considering all the relevant aspects of the matter, including the delay in disposal of the claim petition, and the present appeal and the fact that the Insurance Company alone is not to be blamed for the entire delay in the matter, we quantify the amount of interest on the enhanced amount of compensation of Rs. 56,000/- at Rs. 5,000/-

18. For the foregoing reasons, the appeal filed by the Appellants/claimants for enhancement of the compensation is allowed in part. The compensation of Rs. 87,000/- awarded by the Tribunal is enhanced to Rs. 1,43,000/-with further quantified amount of interest of Rs. 5,000/- on the enhanced amount of compensation of Rs. 56,000/-.

19. Respondent No. 4 the United India Insurance Company Limited is granted three months'' time for depositing the total sum of Rs. 61,000/- (Rs. 56,000/- towards enhanced amount of compensation + Rs. 5,000/- towards quantified amount of interest on the enhanced amount of compensation of Rs. 56,000/-) before the concerning Claims Tribunal.

20. No order as to costs.