(2003) 03 JH CK 0029

In the Jharkhand High Court

Case No : A.F.O.O. No. 269 of 1997

Smt. Meena Sinha — APPELLANT

Vs

Naresh Kumar and Others — RESPONDENT

Date of Decision : 31-03-2003

Acts Referred:

Citation : (2004) 1 ACC 641 : (2004) 1 JCR 267

Hon'ble Judges : Gurusharan Sharma, J;Amareshwar Sahay, J

Bench : Division Bench

Advocate : Raj Nandan Sahay, for the Appellant; Sidheshwar Prasad, for the respondent No. 1 and D.C. Ghose, for the respondent No. 4, for the Respondent

Judgement

1. Anil Kumar Sinha, aged about 38 years was employed as Mining Inspector in the office of District Mining Office, Dhanbad. On 29th April, 1978, while going on his scooter (BRR 8938) at the junction of the Officers Colony Road and Lubi Circular Road of Dhanbad town, he was dashed by a truck (BHR No. 7993).

2. In the said accident has sustained serious injury and subsequently died. His widow, Meena Sinha filed Title (MV) No. 63 of 1978 before the Motor Accidents Claim Tribunal, Dhanbad, for compensation under the Motor Vehicle Act, 1988 (hereinafter to be referred to as ''the Act'').

3. It was established that the accident took place on account of rash and negligent drive of the truck, which resulted into death of Anil Kumar Sinha. On the basis of his monthly salary @ Rs. 660/-, which he was getting at the time of accident, the annual dependency was assessed at Rs. 3960.00 and after deducting half of his monthly earnings towards personal expenses and applying 16 multiplier total amount of Rs. 63,360.00 was calculated as compensation payable to the claimant.

4. The claimant has filed the present appeal for enhancement of the compensation amount.

5. Admittedly the deceased was 38 years old at the time of accident and he was a permanent Government servant and had also scope of future prospect of advancement in his life, including chance of promotion.

6. According to Mr. R.N. Sahay, learned counsel for the appellant, the Tribunal completely failed to take into consideration this aspect of the matter and observed that the monthly salary of the husband of the claimant was Rs. 660/- at the time of accident and as such the lost dependency of the claimant can be assessed on the basis of the income of her husband. In respect of the claim made by the claimant regarding future prospect of life of a permanent Government employee like the deceased, Mr. Sahay placed reliance on the ratio of the decision of the Apex Court in General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others, .

7. In the said decision the Apex Court observed as under :--

"In the present case the deceased was 39 years of age. His income was Rs. 1032/- per month. Of course, the future prospects of advancement in life and career should also be sounded in terms of money to augment the multiplicand. While the chance of the multiplier is determined by two factors, namely, the rate of interest appropriate to a stable economy and the age of the deceased of the claimant which ever is higher, the ascertainment of the multiplicand is a more difficult exercise. Indeed, many factors have to be put into the scales to evaluate the contingencies of the future All contingencies of the future need not necessarily be baneful. The deceased person in this case had a more or less stable job. It will not be inappropriate to take a reasonably liberal view of the prospects of the future and in estimating the gross income it will be unreasonable to estimate the loss of dependency on the present actual income of Rs. 1032/- per month. We think, having regard to the prospects of advancement in the future career, respecting which there is evidence on record, we will not in error in making a higher estimate of monthly income at Rs. 2,000/- as the gross income. From this has to be deducted his personal living expenses, the quantum of which again depends on various factors such as whether the style of living was spartan or bohemian. In the absence of evidence it is hot unusual to deduct one third of the gross income towards the personal living expenses and treat the balance as the amount, likely to have been spent on the members of the family and dependents. This loss of dependency should capitalize with the appropriate multiplier. In the present case we can take about Rs. 1.400/- per month or Rs. 17.000/- per year as the loss or dependency and if capitalized on a multiplier of 12, which is appropriate to the age of the deceased the compensation would work out to (Rs. 17,000 x 12 = 2,04,000 rupees) to which is added the usual award for loss of consortium and loss of the estate each in the conventional sum of Rs. 15.000/-."

8. Complying with the said ratio and taking into consideration the evidence brought on record regarding future prospects of the deceased, including the promotion to the post of District Mining Officer, whereby he had a chance to get

any scale of Rs. 2400-4150 as shown in Exhibit 1, in our assessment, monthly earnings of the deceased should have been estimated at Rs. 1500/- as gross income out of that after deducting 1/3rd forwards his personal living expenses, the balance amount of Rs. 1000/-was likely to be spent on the members of the family and the dependents, hence, annual dependency is calculated at Rs. 12,000/- (Rs. 1000 x 12) and thereafter considering the age of the deceased, in our opinion, 13 multiplier was most appropriate to be applied and thus the total amount of compensation comes to Rs. 1,44,000/-.

9. So far as grant of interest on the compensation amount is concerned, applying the ratio of the decision of the Apex Court in Smt. Kaushnuma Begum and Ors. v. The New India Assurance Company Ltd. 2002 (2) JCR 32 (Jhr) : 2001 (1) JLJR 322, we direct that on the aforesaid compensation amount the claimant is entitled to get interest @ 9% per annum from the date of filing of the present appeal till the payment is made.-

10. With aforesaid modification and enhancement in the amount of compensation, this appeal is disposed of. No cost.