(2011) 11 RAJ CK 0092

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 506 of 2002

Smt. Sushila Alias Shushi and Others — APPELLANT

Vs

Prakash Jat and Others — RESPONDENT

Date of Decision : 01-11-2011

Acts Referred:

Citation : (2013) 1 CDR 156

Hon'ble Judges : Mohammad Rafiq, J

Bench : Single Bench

Advocate : Rakesh Chandel, for the Appellant; Vinod Tyagi, Counsel, for the Respondent

Judgement

Mohammad Rafiq, J.—This appeal has been filed by claimant-appellants aggrieved by award dated 30.01.2002 of learned Motor Accident Claims Tribunal, Jaipur District, Jaipur, in MAC Case No. 23/1995, whereby learned Tribunal awarded compensation of Rs. 3,00,600/- against total claim of Rs. 18,02,000/- for death of Jagdish, the husband of appellant No. 1 Sushila alias Sushi. Learned counsel for appellants has raised twofold contentions. His first contention is that since age of the deceased at the relevant time was 22 years, multiplier of 18 should have been applied instead of 17, and learned Tribunal has erred in adopting the multiplier of 17. Learned counsel, in support of his argument, has relied on judgment of the Supreme Court in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, , and also the second schedule appended to the Motor Vehicles Act. It is also argued that there are six claimants and, therefore, as per the judgment of the Supreme Court in Sarla Verma, supra, not more than 1/4th should have been deducted for self-expenses of the deceased whereas learned Tribunal has wrongly deducted 1/3rd of the income towards self-expenses of the deceased while calculating loss of dependency.

2. Learned counsel for respondents opposed the appeal. Though, he could not dispute that correct multiplier at the age of 22 years according to the judgment of the Supreme Court in Sarla Verma, supra, and as per the second schedule

appended to the Motor Vehicles Act, should be 18, but learned counsel submitted that two minor sisters of the deceased i.e. appellants and 5 and 6, could not be taken as dependents on him because their father and mother both were alive and, therefore, only four persons should be taken as dependents for the purpose of deduction towards self-expenses of the deceased.

3. Having heard learned counsel for the parties and perused the material on record, I am of the view that looking to the age of the deceased at the time of his death and keeping in view the law laid down by the Supreme Court in Sarla Verma, the learned Tribunal should have adopted the multiplier of 18 instead of 17. On the aspect of deductions under the head of self-expenses, even if it is accepted that there are four dependents then also as per ratio of judgment of the Supreme Court in Sarla Verma, the deductions under the head of self-expenses of the deceased should be 1/4th and not 1/3rd on the analogy that the deceased may not have been contributing more to the family.

4. The monthly income of the deceased, as determined by the learned Tribunal, is Rs. 2100/- and after deducting 1/4th therefrom towards his self-expenses, the monthly loss of dependency would come to Rs. 1575/-. The appellants are thus entitled to receive compensation of Rs. 3,40,200/- (1575 x 12 x 18) under the head of loss of dependency. The compensation of Rs. 15,000/- under non-pecuniary heads i.e. Rs. 10,000/- under the head of loss of love and affection and Rs. 5000/- under the head of funeral expenses, is maintained.

5. The appellants thus be entitled to receive a sum of Rs. 3,55,200/- (Rupees three lack fifty five thousand two hundred only) as total compensation. The appellants shall be entitled to receive interest on the enhanced amount of compensation at the rate of 7.5% per annum from the date of filing of claim petition, which shall be paid to the appellants within a period of three months. Accordingly, the appeal is allowed in part.