
(2008) 08 CHH CK 0018
In the Chhattisgarh High Court
Case No : M.A. No. 891 of 2002

Smt. Vimla Bai and Others

APPELLANT

Vs

Firtu Ram and Others

RESPONDENT

Date of Decision : 07-08-2008

Acts Referred:

Motor Vehicles Act, 1988 — Section 163A, 173

Citation : (2008) 08 CHH CK 0018

Hon'ble Judges : Rajeev Gupta, C.J.;Sunil Kumar Sinha, J

Bench : Full Bench

Advocate : Prafull Bharat and Mr. Santosh Bharat, for the Appellant; N.K. Agrawal with Shri Q. Aziz, Advocate for the Respondent No. 3, for the Respondent

Judgement

Rajeev Gupta, C.J.—The appellants have preferred this appeal u/s 173 of the Motor Vehicles Act for enhancement of the compensation awarded by the Additional Motor Accident Claims Tribunal, Dhamtari, District Raipur (for short "the Tribunal") vide award dated 4-7-2002, passed in Claim Case No. 390/2002. The claimants, unfortunate widow, children and parents of deceased Sukalu Ram claimed compensation of Rs. 15,08,000/- for his death in the motor accident on 12-4-2001, when the Metador bearing Registration No. MP-24/9023 in which he was travelling with his vegetables was dashed by the offending vehicle Dumper, bearing Registration No. MP-24/C-3271, resulting in his instantaneous death on the spot itself. The claimants further pleaded that deceased Sukalu Ram used to earn Rs. 5,000/- per month by selling vegetables.

2. The owner and driver of the offending vehicle Dumper did not contest the claim and were proceeded ex parte before the Tribunal. The insurer of the Dumper contested the claim and denied its liability to pay compensation to the claimants on the plea that the Dumper was being plied in breach of the policy conditions and the driver of the Dumper was not holding a valid driving licence.

3. The claimants examined AW1 Smt. Vimla Bai, AW2 Ramesh Kumar & AW3 Vijay Singh Thakur in support of their claim, whereas the insurer of the Dumper

did not examine any witness in rebuttal.

4. The Tribunal on a close scrutiny of the evidence led before it held that deceased Sukalu Ram died on account of the injuries sustained by him in the motor accident on 12-4-2001; the accident occurred due to rash and negligent driving of the driver of the offending vehicle Dumper; as the offending vehicle Dumper on the date of the accident was insured with the New India Insurance Company Ltd., the Insurance Company was liable to pay compensation to the claimants.

5. The Tribunal assessed the income of deceased Sukalu Ram at Rs. 1,300/- per month. By deducting a sum of Rs. 400/- per month towards the personal expenses of the deceased, the claimants' dependency was assessed at Rs. 900/- per month and Rs. 10,800/- per annum. By multiplying the annual dependency of Rs. 10,800/- with the multiplier of 10, the compensation was worked out to Rs. 1,08,000/-. By awarding further sum of Rs. 10,000/- under other permissible heads, the Tribunal awarded a total sum of Rs. 1,18,000/- as compensation to the claimants for the death of deceased Sukalu Ram in the motor accident. The Tribunal directed payment of interest @ 9% per annum on the above amount of compensation of Rs. 1,18,000/- from the date of filing of the claim petition till the date of actual payment.

6. Shri Prafull Bharat, 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. 1,300/- per month only; in selecting lower multiplier of 10; and in awarding low compensation of Rs. 1,18,000/- only.

7. Shri N.K. Agrawal, learned Senior Counsel for respondent No, 3/Insurance Company, on the other hand, supported the impugned award and contended that as the claimants could not establish the income of the deceased, the compensation of Rs. 1,18,000/- awarded by the Tribunal is just and proper compensation in the facts and circumstances of the present case.

8. The findings recorded by the Tribunal that deceased Sukalu Ram died on account of the injuries sustained by him in the motor accident; the accident occurred due to rash and negligent driving of the driver of the offending vehicle Dumper; and the insurer of the offending vehicle Dumper was liable to pay compensation to the claimants, have now attained finality as the respondents have not filed any appeal against the award. That apart, these findings are not under challenge before us in this appeal. We, therefore, affirm the above findings recorded by the Tribunal.

9. Though, the claimants pleaded that deceased Sukalu Ram used to earn Rs. 5,000/- per month by selling vegetables, the evidence led by them in that behalf before the Tribunal was not of clinching nature. We, therefore, do not find any fault in the approach of the Tribunal in discarding the claimants' evidence about the income of the deceased. Nevertheless, the Tribunal in the event of discarding

claimants" evidence about the income of the deceased ought to have assessed his income on the basis of notional income prescribed in the Second Schedule u/s 163-A of the Motor Vehicles Act.

10. The notional income of Rs. 15,000/- was prescribed in the Second Schedule u/s 163-A of the Motor Vehicles Act in the year 1994. If we take into consideration the increase in the prices of the essential commodities and the cost of living during the period between 1994 and 2001, the year of accident in the present case, the notional income of Rs. 15,000/- prescribed in the Second Schedule in the year 1994 would come to Rs. 24,000/- in the year 2001. We, therefore, propose to re-compute the compensation taking the income of the deceased at Rs. 24,000/- per annum.

11. By deducting 1/3rd of Rs. 24,000/- towards the personal expenses of the deceased, the claimants' dependency is assessed at Rs. 16,000/- per annum.

12. Deceased Sukalu Ram was 30 years of age on the date of accident, whereas his widow Smt. Vimla Bai was shown 27 years of age in the claim petition filed in the year 2002. We are, therefore, of the considered view that the multiplier of 15 would be appropriate in the present case.

13. By multiplying the annual dependency of Rs. 16,000/- with the multiplier of 15, the compensation works out to Rs. 2,40,000/-. The claimants are further entitled to Rs. 5,000/- towards funeral expenses; Rs. 5,000/- for loss of consortium to the widow; Rs. 5,000/- for loss of estate. The claimants, thus, become entitled to receive a total sum of Rs. 2,55,000/- as compensation for the death of deceased Sukalu Ram in the motor accident.

14. Considering all the relevant factors 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 delay in the matter, we quantify the amount of interest payable on the enhanced amount of compensation of Rs. 1,37,000/- at Rs. 13,000/-.

15. For the foregoing reasons, the appeal filed by the claimants for enhancement of the compensation is allowed in part. The compensation of Rs. 1,18,000/- awarded by the Tribunal is enhanced to Rs. 2,55,000/- with further quantified amount of interest of Rs. 13,000/- on the enhanced amount of compensation.

16. The entire enhanced amount of compensation of Rs. 1,37,000/- and the quantified amount of interest of Rs. 13,000/- (total amount of Rs. 1,50,000/-) shall be payable to appellant No. 1 Smt. Vimla Bai, widow of deceased Sukalu Ram.

17. Respondent No. 3/New India Insurance Company Ltd., is granted three months time for depositing the total sum of Rs. 1,50,000/- (Rs. 1,37,000/- towards enhanced amount of compensation + Rs. 13,000/- towards the quantified amount of interest on the enhanced amount of compensation) before the concerning Claims Tribunal. No order as to costs.