(1998) 12 GAU CK 0010

In the Gauhati High Court

Case No : M.A. (F) No. 129 of 1993

Sobahan Ali and Others APPELLANT

Vs

Jitendra Narayan Mondal and Another RESPONDENT

Date of Decision : 01-12-1998

Acts Referred:
Penal Code, 1860 (IPC) — Section 279, 304A

Citation : (2000) ACJ 73

Hon'ble Judges : J.N. Sharma, J

Bench : Single Bench

Advocate : D.C. Mahanta, D. Das, T.J. Mahanta and R. Gogoi, for the Appellant; P.J. Deka and S.K. Borkataki, for the Respondent

Final Decision : Allowed

Judgement

J.N. Sarma, J.—This is really an unfortunate and pitiable case where the Motor Accidents Claims Tribunal awarded an amount of Rs. 2,500 only and a cost of Rs. 500 with regard to the death of a lady aged about 60 years. That amount was also not awarded against the insurance company, but against the owner of the scooter. The only ground for awarding this Rs. 2,500 is that the deceased was a daily rated worker and the Tribunal found as if there is no value of life of the daily rated workers.

2. The law is settled by a catena of decisions where it has been pointed out that the Motor Accidents Claims Tribunal should not give award on the higher side making a claim before the Tribunal a lottery or a jackpot, but at the same time, it has been consistently held that there is no justification for a Tribunal to be niggardly and/or to display an attitude of parsimony.

3. A claim petition was filed in the year 1991 before the Member, Motor Accidents Claims Tribunal at Dhubri and that was registered as M.A.C. No. 29 of 1991. It was stated therein that one Manik Moti Bewa aged about 60 years, a daily rated worker doing domestic work having an earning of Rs. 650 p.m., was dashed by a

scooter on 12.1.1991 at about 3 p.m., and accordingly Golokganj P.S. Case No. 10 of 1991 was registered u/s 279/ 304-A, Indian Penal Code. The vehicle in question, i.e., scooter was insured with New India Assurance Co. Ltd., Jalpaiguri Branch. An amount of Rs. 2,00,000 was claimed as the compensation. The owner filed a written statement and disputed the quantum of amount, but at the same time admitted the accident and it was further admitted that the lady died in the hospital on the same day. No written statement was filed on behalf of the insurance company.

4. Before the Tribunal witnesses were examined and it was found by the Tribunal that the scooter was driven by a person having a valid driving licence. The learned Tribunal by award dated 3.6.1993 came to the finding regarding quantum of compensation in deciding the issue No. 4 and it fixed the amount at Rs. 2,500 and a cost of Rs. 500.

5. The deceased was survived by four sons and two daughters. Section 168 provides that the award determining the amount of compensation should be just.

(Emphasis supplied)

6. In fixing the amount of compensation in accident cases there is bound to be some element of arbitrariness because after following certain salient features, no doubt, the matter would generally be left to the Tribunal to take a reasonable view of the facts and come to fix the quantum of compensation. The section provides for determining the amount of compensation which appears to the Tribunal to be just and not perfect. The criteria for determining the compensation are not laid down specifically in the Act, but the Tribunal is to make an award determining the amount of compensation which appears to be just. The word just in the section connoted reasonableness, something conforming to rectitude and justice. Something equitable and fair. The provision in any other Act may furnish a broad outline, but is not binding on the Tribunal. Just compensation is one which does not come as source of profit to the claimant on account of the accident. There can be no confirmed rule for measuring the future of human life and measuring of damages cannot be raised on precise mathematical or scientific calculation. The amount recoverable depends upon the broad facts and circumstances of each case. It must not be arbitrary. The factor to be considered in making an award basically is that the beneficiaries are entitled to the compensation of pecuniary and material loss resulting from the death of one from whom there was reasonable expectation of monetary benefit or assistance. The Tribunal must also take into account the loss suffered by the beneficiaries on some other account, i.e., the loss of company, funeral expenses, etc. The Tribunal is to adopt a method of multiplier while assessing compensation for the loss of annual dependency benefit. The law is that the award of compensation must be liberal as well as view life and limbs in generous scale. Money cannot be viewed as a physical standard for loss and life that has been shattered and battered, and for that the court is to award the sum which must be regarded as reasonable compensation. The determination of quantum of compensation must

answer the expectation of contemporary society, would be deemed to be a fair and reasonable sum by and be accepted by legal standard.

7. It is in the background of this law, let us find out the legality and validity of the compensation awarded by the Tribunal. In this particular case as will be seen that the learned Tribunal failed to take into consideration that in 1994 by amendment of the law for no fault liability an amount of Rs. 50,000 has been fixed for the death of a person, this award no doubt was given on 3.6.93 before the amendment. But yet, when it comes up for decision today before this court, this court must take into account the amendment of the law to mitigate the hardships of a person. So, on no count this amount can be less than Rs. 50,000. On assessment of overall materials, I fix the amount on this count at Rs. 60,000 (Rupees sixty thousand) and to it shall be added an amount of Rs. 15,000 for the loss of company, consortium and the misery suffered by the heirs. To it shall be added another amount of Rs. 2,000 as the funeral costs. So, total award will be Rs. 77,000 (Rupees seventy-seven thousand). This amount shall carry interest at the rate of 9 per cent from the date of the accident till realisation. The amount shall be deposited by the insurance company, i.e., respondent No. 2 within a period of three (3) months before the Tribunal and the amount shall be divided by the Tribunal amongst the heirs and the payment shall be by way of crossed cheque in the name of the heirs.

8. This appeal is allowed as indicated above. I have heard Mr. D.C. Mahanta, learned counsel for the appellants, Mr. S.K. Borkataki, learned counsel for the respondent No. 2. None appeared for the other respondents.