(2004) 09 RAJ CK 0014

In the Rajasthan High Court

Case No : C. Miscellaneous Appeal No. 319 of 1991

Sobhagyavati and Others — APPELLANT

Vs

Som Nath and Others — RESPONDENT

Date of Decision : 10-09-2004

Acts Referred:

Citation : (2004) 09 RAJ CK 0014

Hon'ble Judges : N.K. Jain, J

Bench : Single Bench

Advocate : Sandeep Mathur, for the Appellant; Rahul Joshi, for the Respondent

Final Decision : Allowed

Judgement

N.K. Jain, J.—The claimant-appellants have filed this appeal for enhancement of amount of compensation against the judgment/award dated 26th December, 1990 whereby the learned Tribunal passed an award in favour of the claimants for Rs. 1,70,560/- against non-applicants jointly and severely and interest @ 12% was also awarded.

2. The facts of the case, age and income of deceased are not in dispute in between the parties. The grievance of the claimants appellants are that no compensation has been awarded for future prospectus of the deceased who died in an accident. The learned counsel for the appellants has referred a judgment of the Apex Court in General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others, The learned Tribunal while deciding issue No.3 has placed reliance upon Ex.P.7, the salary certificate of the deceased Bhawar Singh. According to the Certificate of date of birth, the age of superannuation of the deceased was 9th October, 1997. The salary of the deceased was Rs. 1515/- per month. The learned Tribunal deducted 1 /3rd amount of the salary of the deceased on account of his personal expenses and remaining 2/3rd amount Rs. 1010/- was made basis for calculating the amount of compensation looking to age of deceased, the Tribunal applied the multiplier of

13 and awarded compensation of Rs.1,57,560/-.

3. The learned counsel for the respondent has contested the appeal and submitted that the compensation awarded by the learned Tribunal is just and reasonable and this is not a fit case for enhancement of the compensation.

4. I have considered the submissions made by counsels for both the parties. A bare perusal of finding of issue No.3 shows that no amount has been awarded with regard to future prospectus of the deceased. In my considered view, the ends of justice will met in case the amount deducted on account of personal expenses of the deceased may be added in the monthly income of deceased on account of future prospectus. Therefore, after adding the amount on account of future prospectus the income of deceased is determined as Rs. 1515/- P.M. The multiplier of 13 has rightly been applied by Tribunal and on this calculation the total amount of compensation comes to Rs.2,36,340/ -. Therefore, I modify the finding of issue No.3 and pass an award of Rs.2,36,340/- in place of Rs.1,57,560/- as passed by learned Tribunal. So far as the compensation of Rs.5000/- awarded on account of consortium and Rs.8000/- for loss of love and affection is concerned, it is just and reasonable.

5. In view of the above, I allow this appeal and enhance the amount of compensation from Rs. 1,70,560/- to Rs.2,49,340/-. The claimant-appellants will also be entitled interest on this enhanced amount @ 6% per annum from the date of filing of appeal in the High Court i.e. 27th March, 1991. The amount already paid will be adjusted. The appeal is allowed in the manner indicated above.

Cost made easy.

