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(1987) 11 SHI CK 0006

In the High Court Of Himachal Pradesh

State of Punjab and Another — APPELLANT

Vs

Ram Kumar and Others — RESPONDENT

Date of Decision : 27-11-1987

Acts Referred:

Citation : (1988) 1 ACC 413 : (1988) ACJ 564 : (1988) 1 ShimLC 114

Hon'ble Judges : P.D. Desai, C.J

Bench : Single Bench

Judgement

P.D. Desai, C.J.—The learned Advocate General fairly stated that he may not have much to say so far as the rinding on the issue of negligence . is concerned. The challenge on his part was confined to the quantum of compensation as assessed, namely, Rs. 42,000/-.

2. True it is that the compensation does not appear to have been assessed strictly on legal basis. However, even if the compensation due and payable is worked out afresh on the application of known principles, the result will not be favourable to the appellants. This is amply clear from what follows.

3. The deceased was aged about 18 at the time of the fatal accident. He had cleared the matriculation examination with 50% marks in all the subjects except science. He is alleged to have engaged himself in the business of distribution of milk and newspapers while prosecuting studies and to have earned an income of Rs. 500/- to Rs. 600/- per month. This part of the evidence has rightly not been accepted by the Tribunal. However, even assuming that the deceased was not gainfully employed at the t ime of his death, the claim for compensation cannot be straightaway rejected. In such a case, a reasonable guess-estimate of the income which he would have earned in course of time is required to be made for assessing the just compensation. The probable estimate will have to be made on the basis of factors such as the age, the educational career and qualifications, the family background, the employment or career prospects and opportunities, etc.

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4. The father of the deceased is a Halwai by profession. His brother is employed in Chandigarh. He himself had passed the matriculation examination (except in the subject of Science in which he was placed in the compartment) with 50% marks, as earlier found. The family background and the academic record indicate that in course of time the deceased could have looked forward to making a career for himself and setting down in life on a reasonable scale. On the facts and in the circumstances of the case, it would not be unreasonable to hold that if and when he completed the studies, he should have started earning a minimum of Rs. 600/- per month. Even a daily-rated labourer earns approximately this much these days on the basis of the minimum wages. Accordingly, the deceased could be reasonably expected to have started earning an annual income of Rs 7,200/- within a period of another five years. After settling down in life accordingly, he would have married and raised a family in a period of another five to seven years. Out of his estimate annual income of Rs. 7,000/-, he would have been required to divert at-least 2/3rd towards maintaining himself and his family. The balance l/3rd could have been the net saving added to his estate or made available as the dependency benefit to his parents, if needed. It is the said loss of the l/3rd component of his estimated annual income, namely, Rs 2,400/-, which needs to be compensated. In other words, Rs. 2.400/- constitutes the datum figure for assessing the compensation. The choice of multiplier in the case of a person aged 18, who has yet to settle down in life, has to be made with due care and circumspection. Having regard to all the imponderables and taking into consideration all the relevant factors, including that the future prospects have been ignored, it would not be unreasonable to select 18 as the multiplier in the present case. The just compensation on that basis works out to Rs. 43,2000/-. Even if nothing more is added to the said compensation amount by way of the conventional compensation for the loss of expectation of life, the compensation awarded by the Tribunal, namely Rs. 42.000/- still falls short by Rs. 1.200/-. The compensation awarded by the Tribunal cannot be, therefore, regarded as unjust or excessive.

5. For the foregoing reasons, the appeal fails and it is summarily dismissed.

6. Let a notice issue to the claimants-respondents, returnable before the Registrar on December 24, 1987, for the settlement of the usual draft order for investment.

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