

(2015) 08 RAJ CK 0019

In the Rajasthan High Court

Case No : Civil Misc. Appeal Nos. 164 and 165 of 1999

Sugan Kanwar and Others

APPELLANT

Vs

Bhinya Ram

RESPONDENT

Date of Decision : 25-08-2015

Acts Referred:

Citation : (2015) 08 RAJ CK 0019

Hon'ble Judges : Vineet Kothari, J

Bench : Single Bench

Advocate : Amitabh Acharya and Bharat Shrimali, for the Appellant

Final Decision : Allowed

Judgement

Dr. Vineet Kothari, J—The present appeals have been filed against the impugned judgment and award dated 11.12.1998 passed by the learned Motor Accident Claims Tribunal, Merta in Case No. 114/95 - Smt. Sugan Kanwar & Ors. Vs. Bhinya Ram & Ors. & Case No. 122/95 - Champadevi & Ors. Vs. Bhinya Ram & Ors., alongwith other connected matters.

2. The relevant portion of the impugned order of the learned Tribunal is quoted below, for ready reference:-

3. In the present appeals for enhancement of the compensation under various heads, the learned counsels for the appellants, Mr. Amitabh Acharya and Mr. Bharat Shrimali have prayed and further submitted that the future prospects of increase in the income has not been taken into account and applying the ratio of the judgment of the Hon"ble Supreme Court in the case of Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, (2009) ACJ 1298 : AIR 2009 SC 3104 : (2009) CLT 1055 : (2009) 6 JT 495 : (2009) 6 SCALE 129 : (2009) 6 SCC 121 : (2009) 5 SCR 1098 : (2009) 5 UJ 2280 : (2009) AIRSCW 4992 : (2009) 3 Supreme 487 , the future prospects have to be taken into account, looking to the age of deceased Hema Ram i.e. 45 years and Lala Ram.

4. In case of Sarla Verma (supra), the Hon"ble Apex Court in para 24 held as under:-

"24.....In view of imponderables and uncertainties, we are in favour of adopting as a rule of thumb, an addition of 50% of actual salary to the actual salary income of the deceased towards future prospects, where the deceased had a permanent job and was below 40 years. (Where the annual income is in the taxable range, the words "actual salary" should be read as "actual salary less tax"). The addition should be only 30% if the age of the deceased was 40 to 50 years. There should be no addition, where the age of the deceased is more than 50 years. Though the evidence may indicate a different percentage of increase, it is necessary to standardise the addition to avoid different yardsticks being applied or different methods of calculation being adopted. Where the deceased was self-employed or was on a fixed salary (without provision for annual increments, etc.), the courts will usually take only the actual income at the time of death. A departure therefrom should be made only in rare and exceptional cases involving special circumstances."

5. Taking the overall view of the matter, this Court considers it just and proper to enhance the compensation, suitably in both the cases for death of Lala Ram, Assistant Engineer, Public Health & Engineering Department of the State and Hema Ram, the passenger of the Government Jeep in question. A sum of Rs. 1,00,000/- is enhanced in each of the case for the deaths of Lala Ram and Hema Ram under all the heads jointly, is considered appropriate and the same will be deposited with interest @ 9% per annum from the date of filing of the claim petitions till the date of payment. The half of the enhanced amount of Rs. 1,00,000/- within interest will be kept in Fixed Deposit with any Nationalized Bank for a period of five years and the remaining half shall be paid in the saving bank account of the legal representatives of both the deceased persons.

6. Accordingly, both the appeals are allowed. Copy of this order may be sent to the concerned parties and the learned Tribunal below forthwith.