(1987) 12 RAJ CK 0007

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 271 of 1985

Sulochana and Others APPELLANT

Vs

Rajasthan State Road Trans. Corpn. and Another RESPONDENT

Date of Decision : 17-12-1987

Acts Referred:

Motor Vehicles Act, 1939 — Section 110D

Citation : (1987) 12 RAJ CK 0007

Hon'ble Judges : Inder Sen Israni, J

Bench : Single Bench

Advocate : G.C. Mathur, for the Appellant; Jagdeep Dhanker, for the Respondent

Final Decision : Allowed

Judgement

Inder Sen Israni, J.—This Civil Misc. Appeal has been filed u/s 110-D of the Motor Vehicles Act, 1939 (hereinafter referred to as ''the Act'') against the award dated June 15, 1983 passed by the Motor Accidents Claims Tribunal, Jaipur in MACT Case No. 142 of 1983.

2. It will suffice for the purposes of this appeal to state that deceased Suresh Kumar, aged 26 years was fatally injured in an accident caused by bus No. RRB 2869 on account of rash and negligent driving of Respondent No. 2. The bus hit the deceased on the wrong side of the road, who died on the spot. The claimant-Appellants filed a claim petition before the Motor Accidents Claims Tribunal, Jaipur on March 13, 1983 claiming a sum of Rs. 2,97,000/- along with interest as compensation. Learned Tribunal after recording the evidence and hearing the parties, passed an award of Rs. 135,600/- in favour of the claimant-Appellants.

3. The contention of Mr. G.C. Mathur, Learned Counsel for the Appellants, is that even if the monthly income, which was assessed by the Tribunal at Rs. 1,000/- is accepted, the Tribunal has erred in deducting Rs. 400/- on account of personal expenses of the deceased and has also wrongly applied the multiplier of only 18 years, even though the deceased was a young man of 26 years. The contention

of the Learned Counsel is that usually the average age taken by the various courts in such matters is 70 years and a multiplier of 44 years should have been applied. It is further contended that a person who had a wife, father and mother to look after, could not be expected to spend more than 1/4th of his income on his own expenses. Therefore, the dependency of the claimants should have been placed at Rs. 750/- p.m. and not Rs. 600/- as held by the learned Tribunal. Learned Counsel further contends that the Tribunal has also erred in awarding interest at the rate of 10 per cent per annum, which should have been at the rate of 12 per cent per annum from the date of filing of the claim petition. It is further contended by the Learned Counsel that the deceased was the only son of his aged parents, who unfortunately lost his life in an accident, but nothing has been given to the Appellant Nos. 2 and 3 on account of love and affection. Apart from this the contention of the Learned Counsel is that a meagre amount of Rs. 5,000/- has been awarded to the young widow, Appellant No. 1 who was aged only 22 years at the relevant time, on account of loss of consortium. Learned Counsel submitted that Rs. 50,000/- were claimed as consolidated amount on this account, which should have been allowed. It is submitted that the amount of Rs. 1,000/- awarded as funeral expenses is rather very low as in these days of high prices, ordinarily the expenses of Rs. 3,000/- have to be made out for funeral expenses and connected ceremonies.

4. Mr. Jagdeep Dhanker, Learned Counsel appearing on behalf of the Respondents, contends that the father of the deceased was working as teacher at the relevant time, therefore, his dependency on the deceased was not much. Since the deceased had no children, the Tribunal has rightly held the dependency amount to be Rs. 600/- p.m. which does not call for any interference. It is further submitted that on account of the same circumstances the multiplier was kept at 18, which also seems to be quite reasonable. It is further contended that there is no hard and fast rule that the interest be awarded at 12 per cent per annum and the Tribunal in its discretion has awarded interest at the rate of 10 per cent per annum from the date of filing of the claim petition, which is quite justified in the facts and circumstances of the case. It is also submitted that the Tribunal has awarded Rs. 5,000/- as consortium to the widow, Appellant No. 1, which also is quite reasonable. Regarding funeral expenses, the contention of the Learned Counsel is that no details were given and the trial court has rightly awarded Rs. 1,000/- under this head.

5. I have heard Learned Counsel for both the parties and have also gone through the award. Learned Tribunal while fixing the amount of Rs. 400/- as personal expenses, has stated in the award that the deceased was living alone at Jaipur, where he was maintaining himself separately and therefore, in such circumstances, the Tribunal thought fit that the expenses of the deceased on his own person will be Rs. 400/- per month. Usually, 1/3rd amount out of the total income of the deceased is taken to be his personal expenses. However, in this case since the deceased was living separately at Jaipur and maintaining his own house, the Tribunal held Rs. 400/- as personal expenses of the deceased, which

is little higher than 1/3rd of his income. I find no reason to interfere with the dependency amount of Rs. 600/- as fixed by the Tribunal.

6. Coming next to the question of applicability of proper multiplier, it is common ground that the age of the deceased was 26 years at the relevant time. There is no hard and fast rule for fixing the span of life at 70 years; the various courts have fixed the span of life from 60 to 70 years keeping in view the facts and circumstances of each case.

7. Learned Counsel for the Appellant has placed reliance on the decision of this Court in Lalita v. Devi Sahai 1987 ACJ 241 (Rajasthan), in which the age of the deceased was 23 years, his income per month was fixed at Rs. 276/- and dependency at Rs. 185/- p.m. In this case the multiplier of 40 was allowed and the amount of award from Rs. 50,660/- was enhanced to Rs. 96,000/- . Smt. Prem Kanwar and Others Vs. Rajasthan State Roadways Corporation and Another, was a case, in which the age of the deceased was 39 years and multiplier of 30 years was applied keeping the span of life at 70 years. In R.S.R.T.C. v. Pista Aggarwal 1986 ACJ 23 (Rajasthan), the age of the deceased was 32 years and the multiplier of 29 years was applied keeping the span of life at 60 years. In Jyotsna Dey v. State of Assam 1987 ACJ 172 (SC), the apex court enhanced the multiplier from 20 to 25 when the age of the deceased was 45 years and thus kept the expected span of life at 70 years.

8. In this case the deceased was a businessman who at the age of 26 years was earning Rs. 1,000/- p.m. and it can be safely said that the income was bound to grow with his age. Merely because the father of the deceased was working as teacher, the principles of the application of multiplier and the normal expectancy of the life cannot be reduced. In the facts and circumstances, in my opinion keeping the span of life of the deceased at 60 years, the reasonable multiplier in this case should be 34 years. Therefore, the Appellants shall be entitled to receive the amount of Rs. 600/- ? 12 ? 34 = Rs. 2,34,800/- (Sic. Rs. 2,44,800/-) under this head.

9. Regarding the compensation on account of loss of love and affection, it cannot be said that the Appellant Nos. 2 and 3 are not entitled to anything on account of loss of love and affection of their only son. I, therefore, award a sum of Rs. 2,000/- each to Appellant Nos. 2 and 3 on account of loss of love and affection due to the death of deceased.

10. Coming to the question of compensation on account of loss of consortium to Appellant No. 1, she became widow at the young age of 22 years. She had full life to live and on account of this unfortunate accident the whole life of the Appellant No. 1 was transformed to gloom. In Hindu society the marriage of a widow is still a far cry. The loss of consortium to a young lady is one of the most unfortunate thing that happens to her in life. In the case of Sohan Lal v. Bal Swaroop Bal Bhatnagar 1987 ACJ 113 (Rajasthan), this Court awarded Rs. 10,000/- as loss of consortium to the widow. The Appellant No. 1, widow of the

deceased, was only 22 years old when the fatal accident took place. Keeping her age in view, I am of the opinion that an amount of Rs. 15,000/- as loss of consortium will meet the ends of justice under this head.

11. As far as funeral expenses are concerned, the amount of Rs. 1,000/- awarded under this head seems to be rather on the lower side. In these days of high costs, the minimum expenses on funeral and connected ceremonies can be reasonably expected to be not less than Rs. 2,000/- . I, therefore, award Rs. 2,000/- on account of funeral expenses to the Appellants.

12. So far as interest is concerned, the apex court has generally awarded interest at the rate of 12 per cent per annum from the date of filing of the claim petition. I, therefore, see no reason why to award less than this to the Appellants. The Appellants shall, therefore, get interest at the rate of 12 per cent per annum from the date of filing of the claim petition.

13. In the result, the appeal is allowed as indicated above. No order as to costs.

