

(2017) 04 JH CK 0090
In the Jharkhand High Court
Case No : 329 of 2015

Sunita Devi @ Sumitra Devi

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 03-04-2017

Acts Referred:

Citation : (2017) 04 JH CK 0090

Hon'ble Judges : Amitav K. Gupta

Bench : SINGLE BENCH

Advocate : Manish Kumar, D.P.Malityar

Judgement

1. This appeal has been preferred against the judgment dated 13.11.2014 passed by the Presiding Officer, Motor Vehicles Accident Claims Tribunal (for short M.A.C.T), Ranchi, in Compensation Case No.139/2009, directing the appellant New India Assurance Company Limited to pay the compensation of Rs.18,99,750/less the amount, if any, paid as interim compensation under section 140 of the M.V.Act with interest @ 9% per annum from 20.11.2009 till the realization of the amount.

2. The appellant Insurance Company has assailed the quantum of the award. Learned counsel for the appellant Insurance Company has submitted that the court below has committed error in computing the compensation by assessing the income of the deceased on the basis of revised salary of Rs.17,036/. Learned counsel has also assailed the judgment on the ground that the Tribunal has erred in adding 15% of the income towards future prospect while relying on the decision rendered in the case of Reshma Kumari & Ors. Vs. Madan Mohan & Ano. reported in [(2013) 9 SCC 65]. Learned counsel has submitted that Hon'ble Supreme Court in the case of Reshma Kumari (supra) has upheld the decision rendered in the case of Sarala Verma [(2009) 6 SCC 121], wherein it has been held that no addition of future income should be made in case the deceased is aged more than 50 years. It is argued that since the awarded compensation is not in consonance with the ratio of Reshma Kumari case (supra), hence it should

be modified and reduced in accordance to the settled principle.

3. Learned counsel for the respondent claimants has supported the judgment and submitted that no illegality or infirmity has been committed by the Tribunal in computing the compensation on the basis of the revised pay and addition of 15% of the income towards future prospect.

4. Heard. Hon^{ble} Supreme Court in the case of Santosh Devi Vs. National Insurance Company Ltd. & Ors. reported in 2012 (3) TAC 1 (SC) has elaborately discussed the underlying principle of Sarala Verma's case and held that no absolute rule was laid down in Sarala Verma (supra) case, neither it was intended that addition of 15% of future income should not be made towards future prospect in case of deceased persons aged above 50 years. In the case of Rajesh & Ors. Vs. Rajbir Singh & Ors. reported in (2013) 9 SCC 54, the Supreme Court has elaborately discussed the underlying principle and ratio rendered in the case of Sarala Verma (supra) and Santosh Devi Vs. National Insurance Company Ltd. & Ors. reported in 2012 (3) TAC 1 (SC). In Rajesh Vs. Rajbir (supra) the Supreme Court relied on the decision of Santosh Das (supra) and reiterated the principle that in benevolent legislation like compensation case earlier decision requires to be revisited, in view of the beneficent scheme of the Act. It has been held that addition of 15% of the income should be made towards future income in case of the persons who are employed in unorganized sector and there is no bar for the court or tribunal in awarding fair, reasonable and equitable compensation. The said decision in Rajesh (supra) has been followed subsequently by a Three Judge Bench in Munna Lal Jain and Another Vs. Vipin Kumar Sharma [(2015) 6 SCC 347]. Thus, in view of the decisions rendered in the aforesaid cases the addition of 15% of income towards future prospect by the Tribunal does not merit any interference.

5. In the instant case, it is evident that the salary of the deceased was revised in terms of 6th Pay Revision from 01.01.2006 and the deceased was entitled to be paid the revised enhanced salary. Accordingly the Tribunal has assessed the income of the deceased on the basis of revised salary slip (Ext.2) of the month of March, 2008. The accident took place on 22.04.2008. The Tribunal has rightly held that P.P.F cannot be deducted from the said income and was justified in assessing the monthly income of the deceased at Rs.17,866/in terms of the revised salary slip. Therefore, the annual income has been assessed at Rs.17,866 x 12 = Rs.2,14,392/and deduction of Rs.9,600/has been made towards income tax accordingly the actual annual income less the tax has been assessed at Rs.1,98,434/. Considering that the deceased died leaving behind six dependents, no error has been committed by the Tribunal in deducting 1/5th of the income as the expenses which the deceased would have incurred on himself. The deceased was aged 54 years, therefore 15% of the income has been added towards future prospect. Accordingly the annual loss of dependency has been calculated at Rs.1,82,559/.

6. The multiplier of 11 has been rightly applied for computing the compensation

payable at (Rs.1,82,559/x 11) Rs.20,10,000/(rounded off). The lump sum amount of Rs.2,25,000/awarded towards funeral expenses, loss of estate, loss of love and affection and loss of consortium is just and reasonable.

7. Since no document was produced to show that the deceased was driving the vehicle in an authorized manner or he possessed proper driving licence hence the Tribunal has rightly deducted 15% of the amount towards contributory negligence and the compensation payable has been fixed at Rs.18,99,750/.

8. The findings of the Tribunal are based on proper and thorough evaluation of the material evidence adduced by the parties. Therefore, in view of the discussions made hereinabove, the appellant⁴ Insurance Company is directed to pay the compensation amount of Rs.18,99,750/less the amount, if any paid as interim compensation under section 140 of the M.V.Act, with interest @ 9% per annum as awarded by the Tribunal within three months from the date of this order. Direction of the Tribunal to pay interest @ 12% is modified and it is made clear that if the amount is not paid within the stipulated period, the Insurance Company shall be liable to pay interest @ 12% from the date of receipt of a copy of this order.

9. Registry is directed to return the deposited statutory amount of Rs.25,000/to the appellant Insurance Company. With the aforesaid observation and direction, the appeal stands dismissed .