
(2010) 07 CHH CK 0006
In the Chhattisgarh High Court
Case No : M.A. No. 1437 of 1999

Tara Bai and Others

APPELLANT

Vs

Prabhudayal@ Nanha and Others

RESPONDENT

Date of Decision : 12-07-2010

Acts Referred:

Motor Vehicles Act, 1988 — Section 163A, 166

Citation : (2010) 4 MPJR 22

Hon'ble Judges : Rajeev Gupta, C.J.;Sunil Kumar Sinha, J

Bench : Full Bench

Judgement

Rajeev Gupta, C.J.

This is claimant's appeal for enhancement of compensation awarded by the additional Motor Accident Claims Tribunal, Mungeli, District Bilaspur (for short "the Tribunal) vide award dated 07.05.1999, passed in Claim Case No. 12/1997.

As against the compensation of Rs. 4,30,000/- claimed by the appellants/claimants, unfortunate widow and minor children of deceased Shankar Satnami, by filing a claim petition u/s 166 of the Motor Vehicles Act, for his death on 14-12-1996 on account of the injuries sustained by him in the motor accident on 13.05.1996, the Tribunal awarded a total sum of Rs. 72,000/- as compensation along with interest @ 12% per annum from the date of filing of the claim petition till the date of actual payment.

The tribunal on a close scrutiny of the entire evidence led before it held that deceased Shankar satnami died on 14-12-1996 on account of the injuries sustained by him in the motor accident on 13-05-1996; the accident occurred due to rash and negligent driving of the driver of the offending vehicle Minibus bearing registration No. MP26-C-5317; and as the offending vehicle Minibus on the date of the accident was insured with the New India Insurance Company Limited, the Insurance Company was liable to pay compensation the claimants.

As the respondents have not filed any appeal against the award, the above

findings recorded by the tribunal have now attained finality.

The Tribunal assessed the incomes of the deceased at Rs. 30/- per day. By deducting 1/3rd of Rs. 30/- towards the personal expenses of the deceased and assuming that the deceased would be getting work for 15 days in a month only, the Tribunal assessed the claimants' dependency at Rs. 300/- per month and Rs. 3,600/- per annum, by multiplying the annual dependency of Rs. 3,600/- with the multiplier of 15, the compensation was worked out to Rs. 54,000/- by awarding further sum of Rs. 18,000/- under other heads, the tribunal awarded a total sum of Rs. 72,000/- as compensation to the claimants, The tribunal further directed payment of interest on the above amount of compensation of Rs. 72,000/- @ 12% per annum from the date of filing of the claim petition till the date of actual payment.

Shri Rajeev Shrivastava and Shri Malay Shrivastava, learned counsel for the appellants submitted that the Tribunal has erred in not accepting the claimants' evidence about the income of the deceased and in assessing his income at Rs. 30/- per day only; in selecting the lower multiplier of 15; and in awarding low compensation of Rs. 72,000/- only.

Shri Dashrath Gupta, learned counsel for respondent No. 3- the New India Insurance Company Limited on the other hand supported the award and contended that as the claimants could not establish the income of the deceased as pleaded by them,. The compensation of Rs. 72,000/- awarded by the Tribunal is just and proper compensation in the facts and circumstances of the present case.

True, the claimants pleaded that deceased Shankar Satnami used to earn Rs. 50-60/- per day as labour, the evidence led in that behalf was not of the Tribunal in discarding the claimants' evidence about the income of the deceased.

Nevertheless, the income of the deceased assessed by the Tribunal at Rs. 30/- per day is certainly on the lower side. The Tribunal while discarding the claimants' evidence about the income of the deceased, ought to have assessed his income on the basis of the notional income prescribed in the Second Schedule u/s 163-A of the Motor Vehicles Act. We. Therefore, propose to recompute the compensation taking the income of the deceased at Rs. 15,000/- per annum on the basis of the notional income prescribed in the Second Schedule.

By deducting the usual 1/3rd of Rs. 15,000/- towards the personal expenses of the deceased, the claimants' dependency is assessed at Rs. 10,000/- per annum.

Considering that deceased Shankar Satnami was aged about 30 years and his widow Tarabai was shown to be 27 years of age in the claim petition, we are of the opinion that the multiplier of 16 would be appropriate in the present case.

By multiplying the annual dependency of Rs. 10,000/- with the multiplier of 16 the compensation works out to Rs. 1,60,000/-. The claimants are further entitled

to receive Rs. 10,000/- towards funeral expenses; loss of consortium to the widow; and loss of estate. The claimants, thus, become entitled to receive a total sum of Rs. 1,70,000/- as compensation for the death of deceased Shankar Satnami in the motor accident.

Learned counsel for the parties submitted that with view to avoid any possible dispute between the parties about the period for which the claimants are entitled to receive interest on the enhanced amount of compensation, the amount of interest on the enhanced amount of compensation may be quantified in this appeal itself.

Considering all the relevant factors including the delay in disposal of the claim petition and the present appeal and the fact that the Insurance Company alone is not to be blamed for the entire delay in the matter, we quantify the amount of interest on enhanced amount of compensation of Rs. 98,000/- at Rs. 13,000/-

For the foregoing reasons, the appeal filed by the appellants/ claimants for enhancement of the compensation is allowed in part. The compensation of Rs. 72,000/- awarded by the tribunal is enhanced to Rs. 1,70,000/- with further quantified amount of interest of the Rs. 13,000/- on the enhanced amount of compensation of Rs. 98,000/-

Respondent No. 3 the New India Insurance Company Limited is granted three months' time for depositing the total sum of Rs. 1,11,000/- (Rs. 98,000/- towards enhanced amount of compensation + Rs. 13,000/- towards quantified amount of interest on the enhanced amount of compensation of Rs. 98,000/-) before the concerning Claims Tribunal.

No order as to costs.