
(2010) 10 RAJ CK 0038

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 2347 of 2010

Union of India (UOI) and Another

APPELLANT

Vs

Hazara and Others

RESPONDENT

Date of Decision : 18-10-2010

Acts Referred:

Citation : (2011) 3 TAC 146

Hon'ble Judges : M.C. Sharma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mahesh Chandra Sharma, J.—This civil misc. appeal has been preferred against the award/judgment dated 14th July, 2010 passed by the Judge, Motor Accident Claims Tribunal, Kota in Claim Case No. 591/ 2006 whereby the claim petition filed by Respondent-claimant Nos. 1 and 2 has been allowed and award for Rs. 3,10,000/- has been passed in favour of the claimant-respondents.

2. Brief facts of the case are that the Respondent-claimants filed a claim petition before the Motor Accident Claims Tribunal, Kota against the Appellant Respondent Nos. 3 and 4 on account of alleged loss suffered by them due to death of Fakruddin, who died in the road accident alleged to have occurred on 15th July, 2006, near Ghantaghar Chauraha, Kota when deceased was going by his Motorcycle No. RJ-08-M-4967 from Kotadi to Ghantaghar when Army Truck bearing its registration No. 04-C-069954-K-332 which was belonged to Defence/ Military which was hit behind the said motorcycle by which Fakruddin fell down and sustained grievous injuries. He was taken to the hospital where doctors stated that he was no more. After the accident the Police lodged the report at Police Station Nayapura, Kota.

3. Respondent No. 1-widow of the deceased, Respondent No. 2-son of the deceased have filed claim petition before the Motor Accident Claims Tribunal, Kota claiming Rs. 10,37,000/- as compensation.

4. After obtaining the reply filed by the Appellants five issues have been framed and after recording the statements of the witnesses the learned Judge, Motor Accident Claims Tribunal has awarded Rs. 3,10,000/- as compensation to the claimants vide its award/judgment dated 14th July, 2010. Against the said award/judgment this appeal has been preferred by the non-claimant-appellant.

5. Learned Counsel for the Appellant Mr. B.C. Rawat has contended that while deciding the claim petition vide its award dated 14th July, 2010 the learned Tribunal has not considered the provisions of the Minimum Wages Act. He has further contended that the accident occurred due to sole negligence of the deceased-Fakruddin and the driver of the vehicle cannot be held responsible for the accident. He has further contended that the driver of the Army Truck has been charge-sheeted by the police cannot be said the sole ground of holding the driver negligent, because it is settled law that the finding of the Police authorities is not binding upon the Tribunal and the Tribunal is supposed to give his own reason for holding the involvement of the vehicle and as well as negligence of the driver. He has further contended that the Judge of the Motor Accident Claims Tribunal while deciding the issue No. 3 has awarded very excessive amount as compensation which cannot be said justified looking to the facts of the case. He has further contended that claimants have failed to produce any documentary evidence with regard to the income of the deceased and the learned Tribunal has wrongly assessed the monthly income of the deceased as Rs. 4,500/-. He has further contended that the deceased was working as mason (Karigar), but there is no evidence in this regard. He has further contended that the claimant No. 2-Mohammad Irshad was 25 years old and he was earning Rs. 1,500/- as mechanic.

6. I have heard the Learned Counsel for the Appellants and carefully gone through the facts and circumstances of the case.

7. After considering the facts of the case I am of the view that the claimant-respondent Nos. 1 and 2 are very poor people. The Army truck hit the motor-cycle, by which Fakruddin fell down and sustained grievous injuries, he was died on the spot. The police registered the case. The said facts are corroborated by the witnesses.

8. The para 17 of the award is very much relevant here. The same is reproduced as under:

Hindi Matter Omitted

9. The learned Tribunal has rightly assessed the income Rs. 4,500/- per month of deceased-Fakruddin who was mason (Karigar). Deceased-Fakruddin died on the spot when he was taken by the police to the hospital where he has been declared dead.

10. Looking to the facts and circumstances of the case I do not think it proper to issue notice to the Respondents. Hence, this appeal is dismissed after confirming the award/judgment dated 14th July, 2010.

11. At this stage, Learned Counsel for the Appellant has requested to this Court that two months" time be granted to him for depositing the amount of award.

12. The request of the Counsel for the Appellant is hereby accepted and two months" time is granted to him to deposit the amount of the award in the Tribunal.