

(1999) 01 RAJ CK 0028

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 515 of 1991

Vibha Seth and Others

APPELLANT

Vs

Jai Kishan Tiwari and Others

RESPONDENT

Date of Decision : 04-01-1999

Acts Referred:

Citation : (2001) ACJ 614 : (1999) WLC 709

Hon'ble Judges : D.C. Dalela, J

Bench : Single Bench

Advocate : B.C. Rawat, for the Appellant; Sunil Nath, for the Respondent

Judgement

D.C. Dalela, J.—This is an appeal for enhancement of the amount of compensation. The learned Motor Accidents Claims Tribunal, Jaipur, awarded a total compensation of Rs. 4,69,320 for the death of the deceased, who died in the accident at the age of 30. The learned Tribunal has also assessed the age of the deceased as 30 at the time of the accident. According to the Second Schedule of the Motor Vehicles Act, 1988, the multiplier at this age should be 18.

2. The learned Tribunal has assessed the gross income of the deceased at the time of the accident as Rs. 2,056. In the case of General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others, the Hon'ble Apex Court has held that while assessing the value of dependency, a higher gross income should be estimated having regard to future advancement in the career and increase in the earning of the deceased. The Hon'ble Supreme Court has estimated the gross income of the deceased by doubling the existing gross income of the deceased at the time of the accident, following the principle of law laid down by the Hon'ble Supreme Court, the gross income of the deceased in the present case in hand should be estimated double of Rs. 2,056, i.e., Rs. 4,112. Deducting one-third therefrom on account of the personal expenses of the deceased, the total loss of dependency comes to Rs. 2,742 per month. With reference to multiplier of 18, the total loss of dependency would be Rs. 2,742 x 12 x 18 = Rs. 5,95,172. To this, a sum of Rs. 15,000 should be

added for the loss of consortium and love to the wife of the deceased, and Rs. 5,000 each as compensation for the loss of fatherly affection and loss of care to the daughter and mother of the deceased. Thus, the total amount of compensation in this case comes to Rs. 6,20,172. The award of the learned Tribunal is required to be enhanced to this extent.

3. In the result, the appeal is partly allowed. The total amount of compensation is enhanced to Rs. 6,20,172 from that of Rs. 4,69,320 as awarded by the learned Tribunal. The award of the learned Tribunal shall stand modified to this extent. The other part, terms and conditions of the award, are maintained.