
(2007) 01 RAJ CK 0048
In the Rajasthan High Court

Vimal Kumar Jain and Others

APPELLANT

Vs

Roop Narayan and Others

RESPONDENT

Date of Decision : 17-01-2007

Acts Referred:

Citation : (2007) 3 RLW 2613

Hon'ble Judges : Khem Chand Sharma, J;Gyan Sudha Mishra, J

Bench : Division Bench

Judgement

Gyan Sudha Misra, J.—This appeal has been preferred by the claimants-appellants, who are the parents and brothers of the deceased. The appeal has been filed after a delay of 154 days. However, the delay in filing the appeal was condoned merely in the interest of justice to the parties, although no sufficient cause has been shown by them.

2. In so far as the merit of the appeal is concerned, it appears that the Motor Accident Claims Tribunal, Dausa awarded a sum of Rs. 2,85,000- to the legal representatives of the deceased after computing his income as Rs. 3,000- per month. The parents and the brothers of the deceased, feeling aggrieved with the same, preferred an appeal before the learned Single Judge, which was dismissed as the appellants had failed to serve the notices on the respondents, against which this special appeal has been preferred.

3. The counsel for the claimants-appellants submitted that the income of the deceased was not properly computed by the Tribunal as the deceased was running a computer coaching centre in which 40-50 students were studying and he was also an Income Tax payee for which returns were filed and proof in this regard has also been furnished by the claimants appellants.

4. In order to consider whether any perversity has crept into the impugned order while computing the income of the deceased, we thought it proper to go through the evidence on record which had been gone into by the Tribunal although at the stage of appeal, we are legally not required to enter into its appreciation.

However, in order to examine whether the Tribunal has indulged into any kind of perversity while computing the income of the deceased, we thought it appropriate to peruse the same.

5. Having examined it, we have noticed that the Tribunal has recorded a finding that although the parents and brothers of the deceased had sought to prove the income of the deceased as more than Rs. 3,000- per month and had submitted copies of the Income Tax returns before the Tribunal, all those returns were of the year when the deceased had already died from which it was inferred that no return had been filed by the deceased during his life time and all the documents in regard to the income of the deceased were of the year when he was already dead, as a result of which, no reliance could be placed by the Tribunal on those documentary evidence.

6. The counsel for the appellants, in spite of this, asserted that the income of the deceased was much higher and it was not computed properly. We do not feel persuaded to agree to this submission in regard to the income of the deceased as the income proof pertains to the year when the deceased was not alive and, therefore, the Tribunal was justified, in our view, by not placing reliance on the same. Besides this, we also noticed that the deceased was aged 26 years and was not married and he died leaving behind his parents and two brothers who are already major and are having independent source of income.

7. It is not disputed that the multiplier to the income of the deceased has been properly applied and the only ground of challenge to the award is the erroneous appreciation of evidence by the Tribunal as per the submission of the counsel for the claimants-appellants pertaining to the income proof of the deceased, in which we find no substance for the reasons stated hereinbefore.

8. It hardly needs to be noted that any amount of compensation cannot compensate the death of a son in the family and while we sympathise with this mishap, the court has to remind the basic principles underlying, while computing the income of the deceased to arrive at a figure which can be treated as a just compensation which has been the ratio of the decisions delivered in a series of cases by the Supreme Court. One such decision was delivered in the case of Concord of India Insurance Co. Ltd. Vs. Smt. Nirmala Devi and Others, where the learned Judge of the Apex Court have been pleased to observed that there can be no uniform law for measuring the value of a human life and the measure of damages cannot be arrived at by precise arithmetical calculations. It was further observed therein that the determination of the compensation must be liberal and not niggardly since law values life and limb, nevertheless the claimants should not be permitted to make fortune out of the misfortune that has befallen. Bearing this legal position in mind, we have noticed that the deceased was not even married and had left behind his parents only who have two other sons who are well settled. Besides this, no illegality could be detected in the Tribunal's award while computing the income of the deceased and, therefore, if a sum of Rs. 2,85,000- has been awarded to the parents on account of the death of the

deceased, the same can be treated as a just compensation and the same has rightly been computed by the Tribunal.

9. The appeal, thus, has no merit and hence it stands dismissed at the admission stage itself.

D.B. Civil Special Appeal (c) No. 104 of 2005, Decided on 1th January, 2007

Hon"ble Gyan Sudha Misra, J.

Hon"ble K.C. Sharma, J.

Ravi Kasliwal, for Appellants

S.R. Samota on behalf of T.P. Sharma, for Respondents

This is an application for condonation of delay of 154 days in filing the appeal for which no satisfactory explanation has been offered. Yet, in the interest of justice to the appellants, we thought it appropriate to condone the delay in filing the appeal so that the matter can be heard on merit instead of dismissing the same on the ground of delay.

The delay in filing the appeal is, therefore, condoned. The application accordingly stands allowed and disposed of.