

Party Name : CHHAYA RANI DEBNATH (BHOWMIK) & ORS Vs BARIK MIAH & ANR

THE HONBLE MR. JUSTICE S.C.DAS

By filing this review petition the petitioners sought for review of the judgment dated 24.04.2015 passed by this Court in MAC App. No.25 of 2002 on the count that no compensation has been awarded in respect of loss of love and affection and that the compensation awarded towards consortium as well as towards loss of estate was very meager.

Heard learned counsel, Mr. S.K. Dutta for the petitioners.

It is submitted by Mr. Dutta, learned counsel for the petitioners that the provision under the Motor Vehicles Act for granting of compensation to the victim of motor accident is a welfare legislation and it should be applied harmoniously to the best of the benefits of the victims of motor accident. He has also submitted that after the appeal was filed there were lot of decisions of the apex Court wherein towards loss of love and affection the children have been awarded `1,00,000/-(rupees one lakh) each and the compensation towards consortium as well as loss of estate `1,00,000/-(rupees one lakh) each has been awarded. He has submitted that in this case consortium has been awarded only `10,000/-(rupees ten thousand) and towards loss of estate another `10,000/-(rupees ten thousand) has been awarded which is at a very lower side. He has also submitted that funeral expenses also ought to have been awarded `25,000/-(rupees twenty five thousand) whereas it has been awarded `10,000/-(rupees ten thousand). It is further submitted by Mr. Dutta that the interest also ought to have been @9% per annum but here interest has been awarded only @6% per annum. In support of his contention learned counsel referred the decisions of the apex Court in the cases reported in **2012 ACJ 48, Municipal Corporation of Delhi v. Association of Victims of Uphaar Tragedy, 2014 ACJ 1388, Kalpanaraj & Ors. v. Tamil Nadu State Transport Corporation, 2014 ACJ 2875, Kala Devi & Ors. v. Bhagwan Das Chauhan & Ors.** and catena of other decisions.

I have considered the submission of learned counsel, Mr. Dutta. Except a prayer to grant interest @12% per annum there was no other prayer in the Memorandum of Appeal to grant compensation towards loss of love and affection and on other issues. The contention of learned counsel, Mr. Dutta is that reasonable compensation is to be paid to the petitioners even if there is no specific prayer in the Memorandum of Appeal. The compensation what was awarded by the Tribunal has been enhanced by this Court while disposing the appeal so far this Court found it fit according to law for such enhancement and at this stage this Court cannot again sit as a matter of appeal to reconsider the amount of compensation to enhance it or to grant compensation on any other count what was not considered at the time of passing of the judgment.

A review is permissible in the case of discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of the petitioner or could not be produced by the petitioner at the time when the judgment/order was made or on account of mistake or error apparent on the face of the record or for any other sufficient reason.

The appeal has been decided on the basis of the materials which were already on record. There is nothing that some material which was on record but that has not been considered. There is also nothing to show that there was any error apparent on the face of the record. So, the petitioner, if feels aggrieved, may approach the superior authority against the judgment passed by this Court and I find no ground at all to review the judgment already passed by this Court.

The review application therefore stands rejected.