THE HIGH COURT OF TRIPURA

A G A R T A L A

MAC App. No. 49 of 2012

Claimant-Appellants:

1. Smti. Archana Debbarma(Murasingh),
W/o. Late Hiralal Murasingh.

2. Smti. Anantabala Murasingh,
W/o. Late Bhadra Kumar Murasingh.

Both are residents of West Patichari, P.S.-Santirbazar, District-South Tripura.

By Advocate :

Mr. P. S. Roy, Adv.

Respondents :

1. Sri Sukhen Das,
S/o. Sri Ramesh Das of Kathalia, P.S- Jatrapur, Sonamura, District-West Tripura.
(Owner of Vehicle No. TR-01-L-0714(Maruti Alto).

2. The New India Assurance Co. Ltd.,
Mantribari Road, Agartala, District-West Tripura.
(Insurer of Vehicle No. TR-01-L-0714(Maruti Alto).

By Advocate :

Mr. P. Gautam, Adv.

B E F O R E
THE HON'BLE CHIEF JUSTICE MR. DEEPAK GUPTA

Date of hearing &
Judgment & Order : **18th November, 2015.**

Whether fit for reporting :

Yes	No
	√

JUDGMENT & ORDER (ORAL)

This appeal for enhancement of compensation has been filed by the claimants i.e. the widow and the mother of the deceased and is directed against the award dated 9th March, 2012 passed by the learned Motor Accident

Claims Tribunal, West Tripura, Agartala in T.S (MAC) 318 of 2010 whereby the Tribunal awarded a sum of Rs.5,51,000/- in favour of the claimants.

[2] The undisputed facts are that the deceased Hiralal Murasingh was aged about 27 years and died as a result of injuries received in a motor vehicle accident. The learned Tribunal assessed the income of the deceased at Rs.4000/- per month and applying a multiplier of 17 assessed the compensation at Rs.5,44,000/- and also awarded Rs.5000/- as consortium and Rs.2000/- towards funeral expenses.

[3] It is urged on behalf of the claimants that the deceased was the owner of rubber garden and also doing business of sale of milk and therefore, the income taken is very much on the lower side.

[4] Reliance has been placed by Sri P.S. Roy on the judgment of the Apex Court in ***Neeta and others Vrs. Divisional Manager, Maharashtra State Road Transport Corporation : 2015 ACJ 598.*** The facts of that case were totally different. In that case the deceased was a carpenter. It was also proved that though he had agricultural land there was no evidence with regard to the income from the same.

[5] As far as the present case is concerned, the widow when she stepped into the witness box stated that her husband was doing business of milk and rubber and had a rubber garden. Any person who owns agricultural land including rubber garden would have revenue papers showing that such a garden is owned. No such papers were produced before the trial Court. This appeal has been pending for more than three years and no attempt has been made to produce the khatian before this Court. It therefore, cannot be believed that the deceased was the owner of a rubber garden. That leaves us only with the statement of the widow that the deceased was selling milk. That may be true. But how much milk was he selling? How many cows did he own? To whom was he selling the milk? These questions remain unanswered and his actual income has not been proved. Therefore, the income has to be decided by guess work and no other method. All that I can do is to accept that even a labourer would earn Rs.150/- per day at the relevant time and therefore, I assess the income at Rs.4,500/- per month. 50% is added to this on account of future prospect since the deceased was only 27 years of age and therefore, the total income which has to be taken into consideration works out to Rs.6750/- per month. $^{1}/_{3rd}$ i.e. Rs.2250/- is deducted for the personal expenses of the deceased leaving the balance figure of Rs.4500/- per month or Rs.54,000/- per year. Since the deceased was 27 years of age the relevant multiplier as per ***Sarla Verma's*** judgment would be 17 and the total compensation works out to Rs.9,18,000/-. The claimant-widow is also held entitled to Rs.50,000/- as loss of consortium and the claimants are also awarded Rs.22,000/- for funeral expenses. Thus, the total compensation works out to Rs.9,90,000/-.

[6] The total compensation is, therefore, assessed at Rs.9,90,000/-. The award is accordingly enhanced from Rs.5,51,000/- to Rs.9,90,000/- i.e. by Rs.4,39,000/-. The claimants shall also be entitled to interest on the enhanced sum of Rs.4,39,000/- @ 9% per annum from the date of filing of the claim petition till deposit of the amount. The insurance company has already satisfied the amount awarded by the learned Tribunal. It is therefore, directed to deposit the enhanced amount of compensation along with proportionate interest thereupon in the Registry of this Court within twelve weeks from today.

[7] The enhanced amount of compensation i.e. Rs.4,39,000/- is apportioned as follows:

Widow : Rs.3,39,000/- inclusive of the amounts awarded for funeral expenses and loss of consortium.

Mother : Rs.1,00,000/-.

On the amount so deposited, out of the amount payable to the widow and the mother a sum of Rs.50,000/- each shall be released in their favour and the balance amount shall be kept in fixed deposit. As far as the mother is concerned her amount shall be kept in a fixed deposit initially for a period of 3(three) years and thereafter entire amount with interest shall be released to her. As far as the widow is concerned, the amount shall be kept in a fixed deposit for 5(five) years but the interest accruing on the amount shall be paid to her on quarterly basis to meet her day to day expenses. After expiry of five years in addition to interest a sum of Rs. 50,000/- shall be released to the widow every year till the entire amount is paid to her. As per aforesaid direction the amount(s) payable to the claimants i.e. the widow and the mother the same shall be released by remitting it to their personal Bank Account(s) details whereof along with photocopy of the first page of the passbook be submitted in the Registry of this Court within 4(four) weeks from today.

[8] The appeal is disposed of in the aforesaid terms. No order as to costs.

Send down the LCRs forthwith.

CHIEF JUSTICE