HIGH COURT OF JUDICATURE FOR RAJASTHAN
JODHPUR

S.B. Civil Misc. Appeal No. 866/2019

United India Insurance Company Ltd. Divisional Office Bapu Bazar, Udaipur through its General Manager

----Appellant

Versus

1. Smt. Manisha Kunwar W/o Late Shri Mahendra Singh Rajput

2. Bhawani Singh S/o Late Shri Mahendra Singh Rajput minor through his natural guardian Mother Smt. Manisha Kunwar W/o Late Shri Mahendra Singh Rajput

3. Smt. Saju Bai W/o Late Shri Maan Singh Rajput,

All resident of village Pareda, Tehsil Rishabhdev, District Udaipur

..Claimants

4. Balwant Singh S/o Shri Mod Udaisingh, R/o Village Jhijawa Rajput Pahalla, Bhichiwada, P.S. Bhichiwada, District Dungarpur

...Driver

5. Narayan Lal S/o Shri Vaalji Bhol R/o Village & Tehsil Semari District Udaipur.

...Owner

For Appellant(s) : Mr. Mukul Singhvi
For Respondent(s) Mr. Naresh Singh
Mr. Priyanka Tak

HON'BLE MR. JUSTICE SANDEEP MEHTA

Order

12/11/2020

The appellant Insurance Company has approached this Court through this appeal under Section 173 of the Motor Vehicle Act for assailing the judgment and award dated 04.01.2019 whereby the claim application preferred by the respondents being the

dependents of Shri Mahendra Singh (deceased) under Section 166/140 of the Motor Vehicle Act was accepted and the claimants were awarded total compensation to the tune of Rs.12,99,600/-. The appellant Insurance Company and the owner of the vehicle were made jointly and severally responsible for satisfying the award.

I have heard and considered the submissions advanced by Shri Mukul Singhvi, Advocate representing the appellant and have gone through the impugned award.

The only submission advanced by Shri Singhvi for criticizing the impugned award was that the Tribunal was unjustified in holding that the income of deceased Mahendra Singh was Rs.6000/- per month and thus, the award should be reduced.

Having heard and considered the submissions of Shri Singhvi and after going through the impugned award, it is apparent that the claimants made a specific assertion before the Tribunal that Mahendra Singh, who was aged about 24 years at the time of the accident, used to work as an agriculturist and also ran a hotel and that he used to earn a sum of Rs.15,000/- per month from both the enterprises. The Tribunal, however, did not accept this assertion of the claimants and held that the income of Mahendra Singh was a paltry Rs.6,000/- per month. Apparently, the Insurance Company led no evidence whatsoever to challenge the assertion of the claimants regarding the income of Shri Mahendra Singh.

Even by a layman’s perspective, it can be assumed that in the year 2015, a family of four members would not be able to barely survive on a meager sum of Rs.6,000/- per month. Thus, the conservative estimate made by the Tribunal holding that the

income of Shri Mahendra Singh was Rs.72,000/- per annum is absolutely justified. Thus, I am of the firm view that challenge laid by the Insurance Company to the impugned award on the solitary ground that income of Shri Mahendra Singh, the deceased has been assessed on a higher side is absolutely unsubstantiated. Accordingly, I find no merit in the appeal which is dismissed as such.

RAJASTHAN HIGH COURT

(SANDEEP MEHTA),J

Sudhir Asopa/-

