

(2009) 10 RAJ CK 0047

Rajasthan High Court

Case No: None

The State of Rajasthan
and Another

APPELLANT

Vs

Sh. Yaqub Ali and
Another

RESPONDENT

Date of Decision: Oct. 1, 2009

Citation: (2010) 1 WLN 80

Hon'ble Judges: Vineet Kothari, J

Bench: Single Bench

Judgement

Vineet Kothari, J.

This appeal has been filed by the appellant-State-owner of the jeep No. RJ27/4836 belonging to the Police Department of the State, which was being driven in rash and negligent manner and on account of same, said jeep hit the deceased Firoz Ali, who was riding on his moped in Udaipur City near Swaroop Sagar Tri-Section and on account of said accident, the said person Firoz Ali aged 28 years died on that very day in the hospital at 11 p.m., whereas the accident took place at around 5 p.m. in the evening on 18.12 1990.

2. The claimants filed the claim petition claiming a sum of Rs. 19,46,000/- and after deciding various issues in favour of the claimants, the learned Tribunal awarded a sum of Rs. 4,48,000/- While admitting the appeal on 18.05.1998, this Court directed the appellant-State to deposit 50% of the compensation awarded with the Tribunal which was to be disbursed to the claimants and remaining 50% was stayed by this Court.

3. The learned Counsel for the State has urged that there was no proof or evidence produced by the claimants to show that the deceased had worked in Kuwait and monthly income of the deceased was Rs. 8000/- as claimed by them and the Tribunal has also without any such evidence, determined the income of the deceased as Rs. 3000/- and without making any deduction for personal expenditure at the rate of 1/3rd of monthly

income, the learned Tribunal has granted higher amount of compensation with high rate of interest of 15% per annum. He submits that the learned Tribunal has erred in granting disproportionately higher compensation to the claimants.

4. No body has appeared on behalf of the claimants to controvert these submissions made on behalf of the appellants.

5. Having heard the learned Counsel for the State and upon perusal of the record of the case and the reasoning given by the learned Tribunal, this Court is of the opinion that the learned Tribunal believing their version of A.W.1 Nafisa wife of the deceased, and A.W.2 Mushtaq Hussain; co-worker in the garage of the deceased, who were obviously interested witnesses to the extent that the deceased was working in Kuwait for some time, had estimated the income of the deceased at the time when he was working in India only and looking to the age of the deceased of 28 years, the Tribunal estimated the said income of Rs. 3000/- as against the income of Rs. 8000/- as claimed by the claimants. However, the learned Tribunal has not made any deduction for personal expenditure out of his income. Further the claim petition was decided in the year 1994 and the death in question took place on 18.10.1990 and almost 20 years have passed by. The rate of interest of 15% awarded by the Tribunal is also very high looking to the current rate of 8 to 9% per annum.

6. Accordingly this Court is of the opinion that appeal of the appellant-State deserves to be partly allowed and deduction of 1/3rd from the net income of Rs. 3000/- estimated by the learned Tribunal deserved to be made and also the interest rate deserves to be reduced from 15% to 9% as directed by the learned Tribunal. Such recomputation of compensation would arrive at figure of $3000 - 1000 \text{ (1/3rd)} = 2000 \times 12 = 24000 \times 12 = 2,88,000/-$ as against sum of Rs. 4,32,000/- computed by the learned Tribunal. The compensation under other heads is not interfered with. The rate of interest would also stands reduced to 9% per annum.

7. Accordingly, the present appeal is partly allowed and the learned Tribunal shall re-compute the final amount with interest @9% per annum and after adjustment of the amount already deposited by the appellant -State, the remaining amount of compensation with interest may be deposited by the appellant State with the Tribunal within a period of three months from today, which may be disbursed to the claimants in the same proportion as directed by the learned Tribunal. No order as to costs.