

**HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU**

MA No. 223/2013
IA No. 01/2018

Pronounced on : 19th 05.2020

Oriental Insurance Co. Ltd. Appellant(s)

Through:- Mr. Baldev Singh, Advocate

V/s

Isher Lal & ors.Respondent(s)

Through:- Mr. Sandeep Gupta, Advocate

Coram : HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE

ORDER

01. This Appeal under Section 173 of Motor Vehicles Act,1988 is against the award dated 18.02.2013 passed by the Motor Accident Claims Tribunal, Kishtwar (hereinafter to be referred to as 'the Tribunal') in File No. 188/Claim. On account of the unfortunate death of their 25 years old son in a road traffic accident, learned Claims Tribunal has awarded compensation of Rs.4,37,000/- to the parents in terms of Section 166 read with 168 of the Motor Vehicles Act, 1988.

02. Briefly stated the facts which arise for consideration are that Surjeet Singh died as a result of accident occurred due to rash and negligent driving of Bus No. JK02T-6949 on 07.04.2006 while travelling from Gulab Garh to Jammu via Kishtwar. Appellant-Insurance Company filed their objection, however, respondent No. 4 did not appear and was accordingly, set ex-parte. Respondent Nos. 1 to 3 hereinafter referred to as claimants produced three witnesses namely; Des Raj, Lekh Raj

Chamail Singh besides the evidence of Isher Lal. Respondents, however, did not lead any evidence.

03. The Tribunal assessed the monthly income of the deceased as Rs.3,000/- and after deduction of 1/3rd towards his personal and living expenses in view of dependents. The monthly loss of income was taken as Rs.2,000/-. Keeping in view the age of the deceased which was 24 years, multiplier of 18 was applied and the Tribunal awarded a sum of Rs.4,37,000/- as compensation on account of the death of the deceased.

04. The appellant has assailed the impugned award on the following grounds:

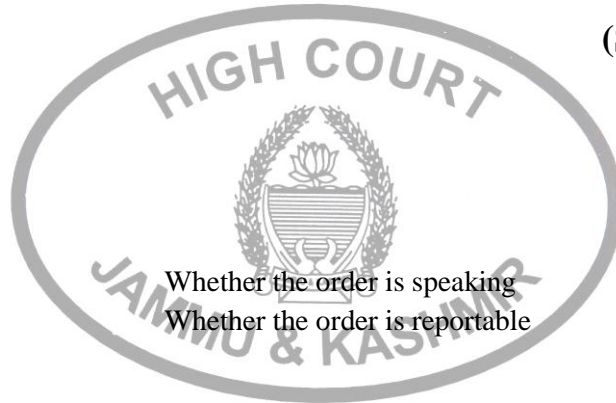
- (i) that the death certificate issued by the police agency on 17.05.2006 was contrary to the provisions of Evidence Act;
- (ii) the income of the deceased has been assessed in the absence of proof;
- (iii) the multiplier applied is bad;
- (iv) interest could not have been awarded from the date of filing of the petition; and
- (v) lastly that the Tribunal had exceeded its jurisdiction in passing the impugned award.

05. As per the evidence, the deceased was running a Kiryana Shop and his income was upto Rs.6,000/- per month, as there was no documentary evidence. The Tribunal assessed the income as Rs.3,000/- per month and keeping in view the dependency, 1/3rd was deducted towards personal and living expenses. Thus, Rs.2,000/- was taken as monthly loss of income and in view of the age of the deceased as per **Sarla Verma & ors. Vs. Delhi Transport Corporation & anr., 2009**

(3) **Supreme 487**, a multiplier of 18 was applied, therefore, the annual loss of dependency and loss of income assessed as $2000 \times 12 \times 18 = 4,32,000/-$. Funeral expenses of Rs. 5000/- was granted.

06. This apart, the death of the deceased stands admitted and the Tribunal has rightly awarded the amount with interest. The claimants have lost their young son of 25 years, for which they cannot be compensated. The award passed by the Tribunal is just and adequate compensation in the facts and circumstances of the case. There is no merit in this appeal and the same is, accordingly, **dismissed** alongwith connected IA.

JAMMU
19th .05.2020
Ram Murti



(Sindhu Sharma)
Judge

Whether the order is speaking
Whether the order is reportable

: Yes/No.
: Yes/No.