

(2004) 08 MP CK 0095
In the Madhya Pradesh High Court
Case No : M.A. No. 2150 of 2004

Ashok Kumar

APPELLANT

Vs

Lallan Khan and Others

RESPONDENT

Date of Decision : 13-08-2004

Acts Referred:

Citation : (2006) ACJ 167

Hon'ble Judges : Shahi Kant Kulshreshtha, J;Rajeev Gupta, J

Bench : Division Bench

Advocate : P.S. Gaharwar, for the Appellant;

Final Decision : Dismissed

Judgement

Rajeev Gupta and S.K. Kulshreshtha, JJ.—Heard on admission. Appellant Ramnawami Singh is seeking enhancement of the amount of compensation awarded by 1st Additional Motor Accidents Claims Tribunal, Sidhi, passed in Claim Case No. 17 of 2003.

2. The appellant claimed compensation of Rs. 32,14,265 for the death of his son Subhash Singh in a motor accident, on 27.1.2002, when offending vehicle minibus bearing the registration No. MP 53-E 0040 dashed against his scooter resulting in serious injuries to Subhash Singh, who succumbed to these injuries during the prolonged treatment in the hospital, on 13.9.2002.

3. Tribunal took the notional income of Rs. 15,000 as income of the deceased, who was aged 18 years only. By deducting 1/3rd as personal expenses, the appellant's dependency was assessed at Rs. 10,000 per annum. Considering the age of the claimant, the Tribunal selected the multiplier of 13 and thus the compensation was worked out at Rs. 1,30,000. A sum of Rs. 1,13,000 was awarded for the medical expenses incurred on the treatment of Subhash Singh from the date of accident till his death on 13.9.2002. The Tribunal further awarded a sum of Rs. 2,000 for the funeral expenses. Thus, a total sum of Rs. 2,45,000 has been awarded to the appellant as compensation.

4. Mr. Gaharwar, the learned counsel for the appellant, submitted that the Tribunal has erred in selecting the multiplier of 13 only, though the deceased was aged about 18 and as such multiplier of 16 ought to have been applied, as prescribed in the Second Schedule to the Motor Vehicles Act.

5. From the impugned award we gather that though the appellant pleaded that his son Subhash Singh was earning Rs. 12,000 per month from tuition, but no reliable evidence could be adduced in support of the said claim. The Tribunal, therefore, took the notional income of Rs. 15,000 as the income of the deceased. In the absence of cogent and reliable evidence in regard to the income of the deceased, the Tribunal had no option but to fall back on the Second Schedule which prescribes Rs. 15,000 as the notional income in a case of non-earning person. We, therefore, do not find any infirmity in the finding recorded by the Tribunal assessing the income of the deceased at Rs. 15,000 per annum.

6. So far as the selection of multiplier of 13 is concerned, the settled law in that behalf is that it is not only the age of the deceased but also the age of the claimant(s) which governs the selection of appropriate multiplier in a given case. In view of the fact that the sole claimant, the father of the deceased, was aged 47 years, no fault can be found with the selection of multiplier of 13.

7. We, therefore, do not find any scope for enhancement either on account of the income of the deceased or the multiplier selected by the Tribunal.

The appeal, therefore, fails and is hereby dismissed summarily.