(1990) 04 MP CK 0030

In the Madhya Pradesh High Court

Case No : M.A. No. 27 of 1988

Badri Prasad and Another — APPELLANT

Vs

National Insurance Co. Ltd. and Others — RESPONDENT

Date of Decision : 05-04-1990

Acts Referred:
Motor Vehicles Act, 1939 — Section 110D

Citation : (1992) ACJ 98

Hon'ble Judges : R.C. Lahoti, J

Bench : Single Bench

Advocate : B.D. Verma, for the Appellant; P.L. Jain and M.P. Dwivedi, for the Respondent

Judgement

R.C. Lahoti, J.—This is an appeal u/s 110-D, Motor Vehicles Act, 1939, preferred by the claimants praying for enhancement in the quantum of compensation awarded by the Tribunal.

2. The facts not in dispute at the stage of this appeal are that late Kishan, the son of the claimant appellants, expired on 22.11.1984 in an accident caused by motor vehicle truck No. MBW 7473 driven by the respondent No. 1 owned by the respondent No. 2 and insured with the respondent No. 3 at the material time. The cause of the accident has been found by the Tribunal to be the negligent driving of respondent No. 1 and rightly so because in the face of the direct testimony of the eye-witnesses who had seen the accident occurring, the driver respondent No. 1 did not even choose to appear in the witness-box.

3. The Tribunal upon an appreciation of evidence has held that the deceased was a labourer earning around Rs. 10/- a day, i.e., Rs. 300/- per month out of which he used to spend fifty per cent of the amount on himself. Thus, the parents were depending to the extent of Rs. 150/- per month on their son. The Tribunal adopted a multiplier of 15, having fixed the age of the deceased around 17 years at the time of the death and then making a deduction of 10 per cent for uncertainties of life fixed up the quantum of compensation at Rs. 25.000/- by

squaring up the ultimate figure. The quantum is in dispute in the appeal.

4. It is difficult to dispute the finding recorded by the Tribunal that the deceased was earning around Rs. 300/- a month though the learned Counsel for the appellants has vehemently assailed the finding. No documentary evidence was adduced nor could it have been expected. Though the claimants came out with a case that the deceased was earning Rs. 40/- a day, but the Tribunal has rightly arrived at a finding considering the probabilities of the case that the deceased was not a mason but a mere labourer. Moreover, he was at the end of his teens but had not yet entered the twenties and as such, it could not be said that he had started earning what was payable to an efficient mason. The Tribunal, therefore, did not err in assessing the earning of the deceased or the dependency of the appellants. However, the ultimate figure of compensation arrived at by the Tribunal is certainly vulnerable on two counts, namely, the multiplier adopted and the deduction for uncertainties of life.

5. A Division Bench of this Court upon a review of several authorities on the point, has held in State of M.P. and Another Vs. Ashadevi and Others, , that when the deceased was between 30s and 40s, it is proper to select the multiplier of 15 while in the case of a deceased who was in his 20s and at the threshold of his career, it is proper to select a multiplier of 16. This is also the view taken in Dhannalal and Another Vs. Raiskhan and Others,). Thus, the multiplier of 16 should have been appropriately applied to the facts of this case.

6. As against the uncertainties of life, the Tribunal should also have taken into consideration that the earnings of the deceased were bound to increase with his advancement of age and the inflationary trend was bound to reduce the value of money. In fact, the latest trend of the judicial decisions is not to make a deduction from the quantum of compensation determined by adopting a multiplier.

7. In view of what has been stated hereinabove the Tribunal having determined the dependency at Rs. 1,800/- should have adopted a multiplier of 16 whereby the ideal figure of compensation to be arrived at should have been Rs. 28,800/- or Rs. 29,000 to round up.

8. The Tribunal also committed an error in awarding interest on Rs. 10,000/- only. The Tribunal was of the opinion that an amount of Rs. 15,000/- was awarded to the claimants under the no fault liability clause and on that amount, the claimants were not entitled to interest. That view is not correct. The Tribunal should have awarded interest at the rate of 12 per cent per annum on the figure of compensation subject to adjustment for the amount paid to the claimants during the pendency of the claim proceedings. The costs could also have not been denied to the claimants because the claim was contested by the respondents on merits.

9. The appeal is partly allowed. In supersession of the award made by the Tribunal, it is directed that the claimants shall be entitled to an amount of Rs.

29,000/- with interest at the rate of 12 per cent per annum from the date of filing of the claim petition, i.e., 13.12.1985, till realisation subject to adjustment for the amount realised during the pendency of the proceedings. The claimants shall also be entitled to the costs incurred by them in both the courts. Counsel''s fee as per Schedule on the awarded amount, both before the Tribunal as also before this Court.

