
(2001) 04 MP CK 0017
In the Madhya Pradesh High Court
Case No : M.A. No. 953 of 1999

Basant Kaur and Others

APPELLANT

Vs

Chatarpal Singh and Others

RESPONDENT

Date of Decision : 16-04-2001

Acts Referred:

Motor Vehicles Act, 1988 — Section 158
Penal Code, 1860 (IPC) — Section 304A

Citation : (2003) ACJ 369

Hon'ble Judges : Bhawani Singh, C.J.; A.M. Sapre, J

Bench : Division Bench

Advocate : S.S. Chawla, for the Appellant; Anil Goyal and V.P. Saraf, for the Respondent

Final Decision : Allowed

Judgement

Bhawani Singh, C.J.—This appeal is directed against the award dated 22.7.1999, passed by the Motor Accidents Claims Tribunal, Indore, in Claim Case No. 168 of 1999.

2. The claimants are widow and children of deceased Darbara Singh, driver, who was incharge of truck No. MKO 9729, owned by Chatarpal Singh, respondent No. 1, insured with Oriental Insurance Co. Ltd., Indore, respondent No. 2. The accident took place on 15.5.1996, between this truck (MKO 9729) and truck No. MEN 1637, owned by Mohd. Hussain, respondent No. 3, driven by Munir Khan, respondent No. 4, and insured with United India Insurance Co. Ltd., respondent No. 5. It happened at 10.30 p.m. in front of Sagati College, Khargone. Darbara Singh died on the spot, as a result of this accident. Therefore, claim petition has been preferred by the claimants claiming compensation of Rs. 3,38,000 alleging that the accident took place due to rash and negligent driving by the driver of truck No. MEN 1637.

3. The Claims Tribunal has dismissed the claim petition holding that the negligence on the part of the driver of truck No. MEN 1637 is not proved.

Therefore, the claimants have preferred this appeal challenging this finding of the Claims Tribunal and seeking compensation for death of Darbara Singh.

4. After hearing the learned Counsel for the parties and perusing the material available, we find that there is no dispute about taking place of accident on 15.5.1996, in front of Sagati College, Khargone. There is also no dispute that Darbara Singh (driver of the truck No. MKO 9729), died on the spot in this accident. Dispute between the parties is about the truck which was responsible for committing the accident.

5. Mr. Anil Goyal, the learned Counsel appearing for Oriental Insurance Co. Ltd. with which the truck No. MKO 9729 was insured, submitted that this truck was not responsible for committing the accident. This submission is supported by the statement of claim and case registered by the police against truck No. MEN 1637. Mr. V.P. Saraf, the learned Counsel appearing for United India Insurance Co. Ltd. with which truck No. MEN 1637 was insured, submitted that in absence of satisfactory and definite evidence with respect to the involvement of truck No. MEN 1637, finding of Claims Tribunal in this case is perfectly justified. Therefore, no liability can be fixed on the owner, driver and insurance company of truck No. MEN 1637.

6. Basant Kaur has stated in the claim petition that truck No. MEN 1637 committed the accident. After all, this lady is not expected to give detailed account of the accident, since she was not present on the spot. She was told about it by the owner of the truck No. MKO 9729 after the accident that driver of truck No. MEN 1637 was driving the vehicle rashly and negligently and caused the accident. This evidence is relevant and acceptable for connecting the truck No. MEN 1637 with the accident. That apart, a criminal case u/s 304A of the Indian Penal Code has been registered against the driver of truck No. MEN 1637. This fact is relevant u/s 158(6) of the Motor Vehicles Act, 1988, under which after the accident, the Station House Officer has to inform the Claims Tribunal about taking place of accident. This case involves the driver of truck No. MEN 1637. These facts are enough to record the finding that the truck No. MEN 1637 was responsible for committing accident and not truck No. MKO 9729.

7. Having come to the aforesaid conclusion, we turn to the next question about determination of compensation in this case. Deceased Darbara Singh was driver of truck No. MKO 9729, which is owned by Chatarpal Singh, respondent No. 1. Chatarpal Singh has filed a written statement in this case in which it is stated that he was paying Rs. 2,000 (as salary) and Rs. 1,500 (diet money) to Darbara Singh. Basant Kaur has stated that the deceased Darbara Singh was receiving Rs. 2,000 as salary and Rs. 1,500 (diet money) from the owner of truck No. MKO 9729. We think, this statement has to be accepted since the respondents failed to cross-examine her on this question. Even otherwise, Darbara Singh was driver in truck No. MKO 9729 and this much of monthly income is normally received by the driver of such a vehicle. Motor Vehicles Act, 1988, also presumes minimum income of an unemployed person to the extent of Rs. 15,000 annually. The

deceased was depending on diet money of Rs. 1,500, therefore, yearly dependency in this case can be fixed at Rs. 2,000 x 12 = Rs. 24,000. At the time of accident, as per the post-mortem report, his age has been fixed at 50. With this case, the proper multiplier should be 13. Consequently, the compensation payable in this case would be (Rs. 24,000 x 13) Rs. 3,12,000. In addition to this, Basant Kaur would be entitled to compensation of Rs. 10,000 for loss of consortium personally, Rs. 5,000 for loss of expectancy of life, Rs. 2,500 for loss to estate and Rs. 2,000 for funeral expenses, taking total compensation to Rs. 3,31,500.

8. The compensation, determined above, shall be paid by United India Insurance Co. Ltd., Indore, with which truck No. MEN 1637 was insured, with interest at the rate of 9 per cent per annum from 27.7.98. It be paid within two months. The amount paid by Oriental Insurance Co. Ltd., respondent No. 2, to the claimants be adjusted by United India Insurance Co. Ltd., respondent No. 5 and paid to respondent No. 2.

9. The appeal is allowed in aforesaid terms. No orders as to costs.