(2008) 09 MP CK 0031

In the Madhya Pradesh High Court

Bhudevi and Others — APPELLANT

Vs

Ramjilal Goyal and Others — RESPONDENT

Date of Decision : 16-09-2008

Acts Referred:

Citation : (2009) ACJ 2422

Hon'ble Judges : Sheela Khanna, J;A.K. Mishra, J

Bench : Division Bench

Judgement

Arun Mishra, J.—The appeal has been preferred by the claimant for enhancement of compensation aggrieved by award dated 31.10.2006 passed by the Fifth Additional M.A.C.T. (Fast Track Court), Morena in Claim Case No. 64 of 2004 awarded on account of death of Ram Avtar Sharma aged 42 years who was sub-engineer in the Rural Engineering Service Department of State of M.P.

2. The claim application was preferred by the widow, minor children and parents of the deceased claiming compensation of Rs. 33,87,000 along with interest. The deceased was drawing salary of Rs. 7,208 at the time of his death. The Claims Tribunal has awarded compensation of Rs. 3,13,000 along with interest at the rate of 6 per cent per annum except for the period 26.9.2005 to 29.9.2006. Dissatisfied with the quantum of compensation awarded by Claims Tribunal the appeal has been preferred.

3. It is submitted by Mr. B.D. Verma, learned Counsel appearing for appellants that Claims Tribunal has assessed income of the deceased at Rs. 5,000 per month, salary was much more. The Claims Tribunal has further erred in deducting 50 per cent (a sum of Rs. 2,500) received by the claimants on account of pension, such deduction could not have been made thus compensation awarded is inadequate, it be suitably enhanced. Learned Counsel further submitted that future prospects have also not been taken into consideration. There were three pay revisions due on 1.1.1986, 1.1.1990 and 1.1.1996. Had the pay fixation been done, the deceased would have drawn the salary of Rs. 10,800 per month, which should have been taken as salary drawn by the

deceased. As the pay fixation has not been done, deceased could not have been held responsible.

4. Mr. B.K. Agrawal, learned Counsel appearing for respondents has submitted that no case of interference in the appeal is made out. The compensation has been worked out in proper manner. Statement of B.K. Sikarwar, CW 1, is based on imagination, no documents have been placed on record so as to satisfy this Court that the deceased was in the employment as on the date on which pay revision had fallen due on 1.1.1986, 1.1.1990 and 1.1.1996.

5. It is not in dispute that deceased was receiving a sum of Rs. 7,208 per month by way of his salary as apparent from salary certificate, Exh. P1 proved by B.K. Sikarwar, CW 1. He has also stated that Ram Avtar Sharma was posted in the office at Sheopur w.e.f. 2001, his basic salary was Rs. 5,000 per month, he was drawing the salary inclusive of D.A. of Rs. 7,208 per month as on 9.8.2003 the date of accident. Witness has further stated that three pay revisions were due w.e.f. 1.1.1986, 1.1.90 and 1.1.1996. However, for that purpose service was required to be verified, after pay fixation deceased would have drawn the salary at Rs. 10,800. Nothing has been placed on record by claimants to indicate that service was rendered by the deceased as on the date on which pay fixation was due on 1.1.1986 and 1.1.1990, may be that on 1.1.1996 deceased was in the service. Considering his age to be 42 years, in the facts and circumstances of the case we take the salary of the deceased at Rs. 8,000 per month. In our opinion, the Claims Tribunal has erred in taking the basic salary at Rs. 5,000 per month and in making further deduction of the amount of pensionary benefits received by the family, the said amount could not have been deducted, thus inadequate compensation has been worked out by the Claims Tribunal. Taking the income at Rs. 8,000 per month, annual income comes to Rs. 96,000, after making one-third deduction towards self expenditure which the deceased would have spent on himself had he been alive, annual loss of dependency comes to Rs. 64,000, age of deceased was 42 years, multiplier of 15 is applicable, as claimants include widow and minor children, same is applied, thus compensation on account of loss of dependency comes to Rs. 64,000 x 15 = Rs. 9,60,000. In addition claimants are entitled for further sum of Rs. 40,000 for funeral expenses, loss to estate and loss of expectancy of life inclusive of a sum of Rs. 10,000 awarded to the widow for loss of consortium. Thus total compensation comes to Rs. 10,00,000 (rupees ten lakh). The compensation enhanced by this Court to carry the interest at the rate of 7 per cent per annum from the date of filing of the claim petition till realization except for the period excluded by the Claims Tribunal in the award. Let amount be paid in 60 days.

6. Resultantly, the appeal is allowed in part to the aforesaid extent. No costs.