

(2002) 04 MP CK 0029
In the Madhya Pradesh High Court

Bhura Singh and Another

APPELLANT

Vs

Anil Kumar Arora and Others

RESPONDENT

Date of Decision : 11-04-2002

Acts Referred:

Motor Vehicles Act, 1988 — Section 163A, 173

Citation : (2002) 3 ACC 242

Hon'ble Judges : S.M. Samvatsar, J

Bench : Single Bench

Judgement

Subhash Samvatsar, J.—This appeal is filed by the appellants/claimants, challenging the award dated 19.3.1997 passed by Eighth Additional Member Judge, Motor Accident Claims Tribunal, Gwalior in Motor Accident Claims No. 36/1990.

2. Appellants/claimants are heirs of one Sobransingh, who died in a motor accident on 18.6.1990. The Claims Tribunal has awarded a compensation of Rs. 51,000/- for the death of Sobransingh. Being aggrieved by the said award, claimants have filed this appeal u/s 173 of the Motor Vehicles Act, for enhancement of compensation.

3. The main grievance of the appellants is that as per the evidence led by the appellants, deceased was earning Rs. 40-50 per day from agriculture. This evidence is disbelieved by the Claims Tribunal without any cogent reason. The Claims Tribunal has assessed the income of the deceased at Rs. 900/- per month. The Claims Tribunal has deducted an amount of Rs. 400/- per month towards the experience of the deceased and assessed the dependency at Rs. 500/- per month. The Tribunal has held that the deceased was aged 60 years at the time of his death and has applied a multiplier of 8. Thus, the amount of compensation towards general damages is assessed to Rs. 48,000/-. Apart from it, the Court was awarded Rs. 3,000/- as solatium.

4. According to the appellants, this amount is too low and deserves to be

enhanced.

5. The date of accident is 18.6.1990. At that time, Section 163A of the Motor Vehicles Act was not enacted. However, there are series of judgments, which take a view that though the said section has no application in the old cases, still a guidance can be taken from Section 163A for the determination of the compensation even in the old cases.

6. In view of these facts, I am inclined to assess the compensation on the basis of Section 163A of the Motor Vehicles Act. In the present case, there is no strict proof about the income of the deceased. Schedule II, framed u/s 163A lays down that in cases of non-earning person his income can be assessed on notional basis at Rs. 15,000/ per year. In view of the said provision, I am inclined to hold that the deceased was earning Rs. 15,000/- per year at the time of accident. After deducting the expenses of the deceased, the total dependency comes to Rs. 10,000/- per year. As per Second Schedule the multiplier of 8 is applicable at the age of 60 and, thus, the amount of compensation comes to Rs. 80,000/-. Apart from that, the appellants are entitled to Rs. 2,000/- towards funeral expenses and the widow of the deceased, who was alive at the time of claim petition, is entitled to Rs. 3,000/- towards consortium. Thus, the total amount of compensation comes to Rs. 85,000/-. Thus, in my opinion, this appeal deserves to be allowed and the amount of compensation is enhanced from Rs. 51,000/- to Rs. 85,000/-. The appellants are entitled to interest at the rate of 9% on the enhanced amount.

7. Thus, the appeal partly succeeds. The amount of compensation is enhanced as indicated above. Parties to bear their own costs.