
(2006) 03 MP CK 0005
In the Madhya Pradesh High Court

Chandrasekhar and Others

APPELLANT

Vs

M.P.S.R.T.C. and Another

RESPONDENT

Date of Decision : 29-03-2006

Acts Referred:

Citation : (2006) 4 ACC 338

Hon'ble Judges : S.K. Seth, J

Bench : Single Bench

Judgement

S.K. Seth, J.—This order shall also govern disposal of M.A. No. 1797/2004 as both appeals arise out of the common award dated 23.2.2004 passed by the MACT, Rajgarh (Biaora) in M.V. Case Nos. 26/2000 and 85/2002. In M.V. Case No. 26/2000 Tribunal awarded a sum of Rs. 60,000 for the death of one Sarjubai in a road accident on 24.1.1999. In M.V. Case No. 85/2002, Tribunal awarded to the claimant a sum of Rs. 10,000 for the injuries sustained by him in the said accident.

2. Sarjubai and the appellant Chandrasekhar, mother and son, were travelling as passengers in a bus belonging to respondent No. 1. They were travelling from Indore to Biaora. Near Sarangpijir college, the bus collided with a tanker and overturned. On account of the accident, Sarjubai died on the spot and Chandrasekhar sustained grievous injuries. Two separate claim petitions, one by the legal heirs of Sarjubai and another by the appellant Chandrasekhar were filed claiming compensation against the respondents.

3. Based upon the evidence, Tribunal found that on the fateful day respondent No. 1 was owner of the bus and on account of the rash and negligent driving, the bus collided with the tanker. Thus, the bus driver was held responsible for causing the accident in which Sarjubai lost her life and claimant Chandrasekhar sustained injuries. It was also found that on the fateful day bus was insured with respondent No. 2. Tribunal held that the deceased was aged about 65 years of age and awarded only a sum of Rs. 60,000 for the loss of consortium, love and affection, funeral expenses, etc. and for the injuries sustained by the claimant

Chandrasekhar, Tribunal awarded a sum of Rs. 10,000 only. Tribunal found that all the respondents were jointly and severally liable to satisfy the award. From the perusal of the impugned award, it is clear that tribunal did not assess any income of the deceased. On the contrary from the evidence on record, it is clear that deceased used to contribute towards the income of the family. Thus, the Tribunal ought to have taken the notional income as provided in the schedule as the income of the deceased. In the present case, looking to the large number of the family members, in the considered opinion of this Court, deceased must have been spending one fourth amount which should be deducted towards the personal expenses of the deceased instead of the normal one third. The annual loss of income thus comes to Rs. 15,000-3750: 11,250. Looking to the age of the deceased and the children, in the considered opinion of this Court, the multiplier of eight should be applied to work out the future loss of dependency which comes to Rs. 90,000. To this, another sum of Rs. 10,000 towards funeral expenses, loss of love and affection, etc. Thus, for the death of Sarjubai claimants in MV Case No. 26/2000 are entitled to receive jointly and severally from respondents a total sum of Rs. 1,00,000. The enhanced amount shall carry simple interest at the rate of 8% per annum from the date of presentation of the claim petition till it is actually realized.

4. So far as appellant Chandrasekhar is concerned, Tribunal has awarded only a sum of Rs. 10,000 which appears to be meagre looking to the nature of the injuries and the treatment which he was required to undergo. It is clear that besides the fracture of the left hip bone, Chandrasekhar has also sustained injuries on the shoulder as well as knee joint. He remained immobilized over a period of 45 days. Even after the removal of the plaster, he was required to take bed rest for a period of two months and for further treatment he was required to go to the doctors at Ujjain and Bhopal. Considering the overall evidence and the nature of injury sustained by him and the prolonged treatment, in the considered opinion of this Court, a sum of Rs. 75,000 would be the just amount of compensation payable to Chandrasekhar on account of the personal injuries. The enhanced amount shall also carry simple interest at the rate of 8% from the date of presentation of the claim petition till it is actually realized. Thus, both the appeals are partly allowed and the impugned award stand modified to the extent indicated hereinabove with cost throughout. Counsel fee Rs. 1,500 in each appeal, if certified. Both appeals stand accordingly disposed of.

Let a copy of the order passed in this appeal be kept in the file of M.A. No. 1797/2004.