

(2000) 09 MP CK 0018
In the Madhya Pradesh High Court
Case No : M.A. No. 410 of 1998

Cherkin Bai Sahu and another	Vs	APPELLANT
Radhelal Madan Soni and others		RESPONDENT

Date of Decision : 05-09-2000

Acts Referred:

Citation : (2001) 1 MPJR 124 : (2001) 1 MPLJ 385

Hon'ble Judges : Bhawani Singh, C.J.; A.K. Mishra, J

Bench : Division Bench

Advocate : H.S. Patel, for the Appellant; A.P. Singh for Respondent No. 2 and Jaideep Singh, for the Respondent

Final Decision : Allowed

Judgement

Bhawani Singh, C.J.

This appeal is directed against the award of the Motor Accidents Claims Tribunal Raipur, in Claim Case No. 11/1996, dated 21-10-1997.

Claimants are parents of the deceased Pardeshi alias - Chandu Sahu who died in the accident involving truck No. MP 23-D-8633, on 23-8-1996. The truck was being driven rashly and negligently by Radhelal Soni and it dashed against the tree resulting in serious injuries to the deceased. It was insured with Respondent No. 3, the New India Insurance Company and was owned by Khemchand Bardia. Compensation of Rs. 4,60,000.00 was claimed under different heads. It is stated that the deceased was working as driver and was earning Rs. 2,000.00 per month and after his death, the claimants have been rendered hand to mouth.

Driver has been proceeded ex-parte since he neither appeared to defend the case, nor filed any reply. The owner denied the allegations in the claim petition. Insurance Company stated that the driver did not possess valid driving licence and claimants were not dependent on the deceased. All these defences did not find favour with the Tribunal which came to the conclusion that the vehicle was being driven rashly and negligently by the driver. The defence of Insurance

Company that the driver did not possess valid driving licence has not been proved.

Grievance of the Appellants is that income of the deceased has been erroneously settled by the Tribunal resulting in unjust amount of compensation. Learned Counsel for Insurance Company defended the award and stated that the Tribunal has correctly assessed the income of the deceased on the basis of available material, therefore, the finding should not be disturbed, compensation paid is reasonable, therefore, enhancement is not called for.

We have considered the matter and heard Learned Counsel for parties. We are of opinion that the assessment of compensation by the Tribunal is not correct. Minimum income of the deceased has to be taken at Rs. 15,000.00 per annum and Rs. 1250.00 per month. After deducting 1/3 towards personal expenses, annual dependency comes to Rs. 10,000.00. Deceased was 21 year old at the time of accident. The reasonable multiplier in this case should be 17. With this background, the claimants are entitled to compensation of Rs. 1,70,000.00 plus Rs. 2,000.00 towards funeral expenses, taking the total amount to Rs. 1,72,000.00.

The appeal is allowed to the extent aforesaid taking the compensation at Rs. 1,72,000.00 with interest awarded by the Tribunal.

Costs on parties.