(2002) 04 MP CK 0082

In the Madhya Pradesh High Court

Case No : Miscellaneous Appeal No. 242/99

G. Sitaram and Another — APPELLANT

Vs

Ganesh Prasad and Another — RESPONDENT

Date of Decision : 16-04-2002

Acts Referred:

Motor Vehicles Act, 1988 — Section 168, 171, 173

Citation : (2004) ACJ 1746 : (2002) 4 MPHT 82

Hon'ble Judges : Bhawani Singh, C.J;Ajit Singh, J

Bench : Division Bench

Advocate : Saurabh Tiwari, for the Appellant; M. Subramanyam, for Respondent No. 2/Insurance Company, for the Respondent

Judgement

Bhawani Singh, C.J.—This appeal is directed against the award dated October 31, 1998, passed by the Motor Accident Claims Tribunal, Chhindwara, in Claim Case No. 110/96.

2. The accident took place on July 6, 1996, on Chhindwara-Bctul route, when Jeep No. MP 22-B/4663 driven rashly and negligently met with accident resulting in death of G. Prasad Rao (28). The claimants are parents of the deceased seeking compensation of Rs. 7,50,000/-. The Claims Tribunal has come to the conclusion that accident took place as alleged. Ultimately, compensation of Rs. 1,54,000/- has been awarded. The claimants are not satisfied with this award, therefore, it has been assailed through this appeal.

3. Shri Saurabh Tiwari, learned Counsel appearing for the claimants/appellants, submits that the Claims Tribunal has not assessed the compensation properly. Therefore, just compensation has not been awarded. Learned Counsel contends that the deceased was 28 years old at the time of accident, therefore, multiplier of 18 would be applicable instead of 12 applied by the Claims Tribunal. It is also contended that the deceased was Salesman in Hindustan Lever Ltd. earning Rs. 3,500/- per month. Further compensation towards loss to the estate, funeral expenses and loss of expectancy of life has not been awarded and that the

United India Insurance Co. Ltd. has not been made liable to pay compensation.

4. Shri M. Subramanyam, learned Counsel appearing for the respondent 2/ Insurance Company, contends that the Insurance Company is not liable to pay compensation, since the vehicle was not used as per terms of the policy meaning thereby it was private vehicle and the owner and driver was carrying the deceased through it, which was not permissible.

5. Giving consideration to the matter, reading the evidence on record and submissions advanced by the Counsel for the parties, we are of the opinion that the Claims Tribunal has not assessed the compensation properly. The deceased was earning Rs. 3,5000/- per month, therefore, Rs. 42,000/- per annum. After deducting 1/3rd towards personal expenses, annual dependency would come to Rs. 28,000/- per annum, multiplied by 18 plus Rs. 10,000/-towards loss of expectancy of life, Rs. 2,500/- loss to estate and Rs. 2,000/-towards funeral expenses, the compensation works out to Rs. 5,18,500/-. Therefore, the claimants are entitled to compensation of Rs. 5,18,500/-. The enhanced amount of compensation will carry interest at the rate of 9% per annum, payable by owner of the vehicle.

6. Consequently, the award of the Motor Accident Claims Tribunal, dated 31-10-1998 passed in Claim Case No. 110/96 is modified to the extent aforesaid, leaving the parties to bear their own costs.