

(2003) 04 MP CK 0029

In the Madhya Pradesh High Court

Case No : Miscellaneous Appeal No. 458 of 1996

Gafaran and Others

APPELLANT

Vs

Tilakraj Kapur and Others

RESPONDENT

Date of Decision : 14-04-2003

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2004) 3 ACC 768 : (2005) ACJ 1711

Hon'ble Judges : Shravan Shanker Jha, J; Nirmal Kumar Jain, J

Bench : Division Bench

Advocate : B.D. Verma, for the Appellant; B.N. Malhotra, for the Respondent

Judgement

N.K. Jain, J.—For the death of a 23 years old unmarried person, employed in the Government service on a salary of Rs. 1,500 per month, who died in a motor accident and the vehicle was insured with respondent No. 3, the Tribunal below has awarded compensation of Rs. 62,000 to the two sisters (appellant Nos. 4 and 5) of the deceased. Two other sisters, namely, appellant Nos. 2 and 3 were not awarded any compensation on the ground that they were not dependent on the deceased.

2. Counsel for the appellants submitted that the amount awarded is too meagre to be sustained by this Court. As against this Mr. B.N. Malhotra strongly defended the impugned award.

3. It is not disputed before us that the deceased was unmarried and his parents had also died and so only his sisters were his legal representatives. The court below while computing dependency at Rs. 12,000 per annum applied multiplier of four only. A very strange reasoning was given for adopting a short multiplier that the two sisters major in age were not dependent on the deceased while the remaining two sisters were likely to attain majority within next four years. We are afraid, the reasoning adopted by the Tribunal below is not in accordance with law. u/s 166 of the Motor Vehicles Act, where the death has resulted from the

accident, the claim can be preferred by all or any of the legal representatives of the deceased. This provision does not speak of dependants or all such legal representatives being dependent on the deceased. Any legal representative of the deceased can prefer claim before the Tribunal irrespective of he being dependent or not dependent on the deceased.

4. Thus, having regard to the age of the claimants as also the deceased the proper multiplier in the instant case ought to be 15. By applying this multiplier, the amount of compensation on this count will come to Rs. 1,80,000. To this a further sum of Rs. 20,000 need to be added under various heads, thus bringing the amount of compensation to Rs. 2,00,000. Needless to say that all the sisters, i.e., appellant Nos. 2 to 5 are entitled to receive this amount from the respondents.

5. Accordingly, we allow the appeal in part and to the extent as indicated above. The amount of compensation is raised to Rs. 2,00,000, which the respondents shall pay jointly and severally to the appellant Nos. 2 to 5. The amount shall be shared by them equally. The difference amount shall also carry interest at the rate of 9 per cent per annum from the date of passing of the order by the Tribunal until payment. The respondents shall also bear the appellants' cost of this appeal besides their own. Counsel fee Rs. 1,000, if certified.