

(1995) 03 MP CK 0037

In the Madhya Pradesh High Court

Case No : Miscellaneous Appeal No. 202 of 1983

Girdharilal Jagannath Chouhan and Another

APPELLANT

Vs

Abdul Latif Abdul Rehman and Others

RESPONDENT

Date of Decision : 16-03-1995

Acts Referred:

Motor Vehicles Act, 1939 — Section 110B
Motor Vehicles Act, 1988 — Section 140

Citation : (1995) 40 MPLJ 701 : (1995) MPLJ 701

Hon'ble Judges : J.G. Chitre, J

Bench : Single Bench

Advocate : G.K. Neema, for the Appellant; S.V. Dandvate, for the Respondent

Final Decision : Allowed

Judgement

J.G. Chitre, J.

This appeal has been preferred by the appellants assailing the award passed by "Indore Motor Accident Claims Tribunal," Indore in Claim Case No. 172 of 1981 whereby a compensation of Rs. 9,000/- with interest at the rate of 6% per annum from the date of application till realization of compensation amount has been awarded to the appellants.

The accident in question took place on 7-6-1981 in the morning at about 8 or 8.30 a.m. when deceased Mahendra a boy aged 10 years was going towards his house from Patnipura Chouraha and was proceeding towards left side. When he reached near Nanda Nagar Road No. 12, at a place ahead of Church, the vehicle-truck bearing No. CPO-7939 driven by respondent No. 2 Aslam s/o Shaikh Hamit in the employment of respondent No. 1 Abdul Latif came from opposite side and the said accident took place. As per allegation of the appellants, the said truck was being driven by the driver Aslam rashly and negligently and because of such driving, it gave dash to Mahendra as a result of that he sustained injuries and succumbed to death when he was taken to M. Y. Hospital, Indore for medical

treatment, at 12.30 p.m.

The Tribunal recorded the evidence, appreciated the evidence on record in view of the arguments advanced by the rival parties and thereafter passed award which is subject-matter of challenge in this appeal.

The only question which needs to be decided is about the quantum of compensation payable to the appellant and the rate of interest awardable to the appellants over the said amount of compensation.

Learned counsel Shri G. K. Neema appearing for the appellants vehemently argued the case in favour of the appellants and Shri S. V Dandvate, learned counsel for contesting respondent i.e. respondent No. 2, vehemently argued countering the case of the appellants. It is the submission of Shri Neema that the amount of compensation awarded to the appellants is very much low. However, it is the contention of Shri Dandvate, counsel for respondent No. 3 that the said amount of compensation is adequate and the rate of interest awarded thereon is also adequate and there is no scope of enhancement. Shri Neema prays that the amount of compensation and rate of interest be enhanced.

Shri Neema, learned counsel for the appellants placed reliance on the Division Bench judgment of this Court in the matter of Khashti Devi Vs. Amar Nath and Others, for substantiating his argument while Shri Dandvate, learned counsel for respondent No. 3 invited attention to various paragraphs of the award of the Tribunal and submitted that the Tribunal has considered all relevant judgments for the purpose of finding out the appropriate compensation to be awarded to the appellants.

It is true that in paragraphs Nos. 25 to 30 of the impugned award the Tribunal has considered various judgments for the purpose of finding out the amount of compensation to be awarded to the appellants. However, Shri G. K. Neema, learned counsel for appellants placed reliance on the recent judgment of Division Bench of this Court quoted supra.

Shri Dandvate, learned counsel for respondent No. 3 submitted that the theory of payment of minimum compensation which has been advanced by Shri Neema, learned counsel for the appellants cannot be upheld because before 1982 there was no such provision made in Motor Vehicles Act and for the first time the provision was made for giving compensation of rupees 15,001/- in cases of death in motor accidents. It is his argument that the accident in question i.e. of the period prior to 1982, and, therefore, the theory of minimum compensation which has been advanced by learned counsel Shri Neema does not hold the ground.

I do not agree with the learned counsel for respondent No. 3 because the Division Bench of this Court in the matter of Khashtidevi v. Amar Nath (supra) has considered this aspect elaborately. In paragraph 3, the Division Bench of this Court has considered the deduction of family pension from the amount of compensation awardable to the claimants and while doing so the Division Bench

considered the ratio of Full Bench decision of this Court in the matter of Kashiram Mathur v. Sardar Rejendra Singh 1983 ACJ 152 M.P. So also provisions of Section 92-A of Motor Vehicles Act, 1939 and provisions of Section 140 of New Act of 1988 have been considered. The decision of this Court in the matter of Nanjibhai Patel and Another Vs. Vishnu Prasad Sharma, ; Ram Singh and Others Vs. Sheikh Sikandar and Another, and New India Assurance Co. Ltd. Vs. Rambhabai and Others, have also been considered.

In the matter of Khashtidevi v. Amar Nath (supra) the Division Bench of this Court held that after considering the relevant judgments it was suffice to say that the calculation of compensation done by the Claims Tribunal should not be excessively low and unjust on the broad ground of minimum value of human life statutorily fixed by the Parliament. The liability to pay compensation on principle of no.fault in motor accident cases came to be statutorily provided by Section 92-A of the Act of 1939 and now Section 140 of Motor Vehicles Act, 1988. It is pertinent to note that the Division Bench of this Court in the matter of Khashtidevi v. Amar Nath (supra) was dealing with the claim preferred by the claimants in respect of accident which took place on 10-11-1977. In the said matter the Division Bench held that in view of modified provisions of Section 140 of Motor Vehicles Act, 1988, the minimum compensation in such cases should be rupees 25,000/- in view of loss of human life. It was also held that the interest payable on the said amount of compensation should be at the rate of 12% per annum.

When a boy has been killed in the accident which took place due to rash and negligent driving on the part of the driver of motor vehicle, it has to be considered properly by giving appropriate regard to loss of human life. The calculations in terms of figures in respect of loss of earning, loss of service, age of the claimants lose all significance. Human life is not so cheap. It cannot be assessed by making such dispassionate calculations, in my view. Thus, the objections raised by learned counsel Shri Dandvate appearing for respondent No. 3 are squarely answered by the judgment in the matter of Khashtidevi v. Amar Nath (supra). The claimants are entitled to get compensation of Rs. 25,000/- (twenty five thousand) in view of the judgment of Division Bench of this Court in the above said matter. Unfortunately, the claimants have claimed interest over the amount of compensation at the rate of 9% per annum from the date of application i.e. 13-8-1981. Therefore, I am helpless.

Thus, I hereby allow this appeal and direct that respondent No. 3 shall pay compensation to the tune of rupees 25,000/- to the appellants/claimants from the date of application i.e. 13-8-1981 along with the interest of 9% per annum from the date of application till realisation. The appellants are also entitled to get costs of litigation before Tribunal as well as this Court.