
(1994) 05 MP CK 0017

In the Madhya Pradesh High Court

Case No : M.A. No's. 55 and 56 of 1992

Gomati and Others

APPELLANT

Vs

Sarman and Others

RESPONDENT

Date of Decision : 10-05-1994

Acts Referred:

Citation : (1994) ACJ 1291

Hon'ble Judges : S.K. Dubey, J;A.S. Tripathi, J

Bench : Division Bench

Advocate : S.K. Jain, for the Appellant; Madhukar Kulshreshtha and B.N. Malhotra, for the Respondent

Final Decision : Allowed

Judgement

S.K. Dubey and A.S. Tripathi, JJ.—Heard counsel.

2. Deceased Vijay Singh (M.A. No. 55 of 1992), aged 28 years and deceased Banwari Lal (M.A. No. 56 of 1992), aged 24 years, died in a motor accident on 27.9.1988 at about 7.00 p.m. while they were going on their bicycles from Morena city to their villages on Sabalgarh road. Truck No. CPG 68, which was being driven rashly and negligently by respondent No. 1 during the course of employment of respondent No. 2, dashed against their bicycles. The said truck was insured by respondent No. 3 with an unlimited liability.

3. The Motor Accidents Claims Tribunal, Morena, (for short, "the Tribunal"), in Claim Case No. 46 of 1989, for the death of Vijay Singh, taking the multiplicand of Rs. 350/-per month and yearly of Rs. 4,200/-, multiplied by 15 = Rs. 63,000/- plus Rs. 10,000/- towards special damages and Rs. 600/-, the damage to the bicycle, in all Rs. 73,600/-, determined as compensation and after deducting 15 per cent towards lump sum payment, awarded the compensation.

4. In Claim Case No. 47 of 1989, for the death of Banwari Lal, while assessing the monthly income of the deceased at Rs. 500, thus yearly income being Rs. 6,000/- and deducting half of the amount from it by way of expenses incurred by

the deceased on his ownself, fixed the annual figure of dependency at Rs. 3,000/-. Taking this multiplicand and applying the multiplier of 15, the compensation of Rs. 45,000/- was awarded. In the head of pecuniary damages, an amount of Rs. 10,000/- was awarded and towards damage to the bicycle, Rs. 600/- were granted. Out of the total compensation so determined, the Tribunal deducted 15 per cent towards lump sum payment.

5. Mr. S.K. Jain, learned counsel for the appellants, submitted that besides the two deceased persons being milk vendors, they were also doing agricultural work and, therefore, their monthly earning was not less than Rs. 1,000/-. In any case, it cannot be less than Rs. 750/-. It was also submitted that deduction of 50 per cent amount on the deceased's expenses on himself was also illegal when the deceased had to maintain a widow and a child along with the old parents. Therefore, the ratio for deduction on own expenses ought not have been more than $\frac{1}{3}$ rd of the total monthly earning of the deceased. Learned counsel further submitted that the law is well settled that when a multiplier is applied, then no lump sum deduction can be made as it takes care of all the heads including uncertainties of life and the interest income if the amount is deposited in the fixed deposit.

6. On the other hand, learned counsel for the respondent contended that the award is not inadequately low so as to call for any interference of this court as the Tribunal, after finding that no legal evidence had been produced in respect of agricultural income by the deceased, determined the monthly income of the two deceased at Rs. 525/- and Rs. 500/- respectively by the sale of milk. In the alternative, it was submitted that this court takes the view that the monthly earning determined by the Tribunal is not correct, the amount of expenses of the deceased be reduced to $\frac{1}{3}$ rd and in the head of consortium, a conventional figure of Rs. 10,000/- be awarded and the multiplier of 16 be applied as held by this court in the case of State of M.P. and Another Vs. Ashadevi and Others,) and by the Supreme Court in the case of National Insurance Co. Ltd. Vs. M/s. Swaranlata Das and others,

7. To this alternative submission of Mr. Malhotra, Mr. Jain states that the claimants would be satisfied if the expenses of the deceased's own expenses are reduced to $\frac{1}{3}$ rd and the multiplier of 16 is applied and instead of pecuniary damages by keeping the figure of Rs. 10,000/-, the amount be awarded in the head of consortium.

8. In view of the submission of Mr. Jain, we modify the award of the Tribunal in both cases.

9. In Claim Case No. 46 of 1989, taking the monthly dependency of Rs. 350/-, yearly Rs. 4,200/-; multiplied by 16, the amount of compensation comes to Rs. 67,200/-. To this, a sum of Rs. 10,000/- by way of consortium to the widow be added and Rs. 600/- towards the damages to the bicycle. Thus, in all, compensation comes to Rs. 77,800/-, to this, we add Rs. 200/- to ,round up the

figure to Rs. 78,000/- which shall be payable to the claimants as compensation.

10. In Claim Case No. 47 of 1989, after deducting the $\frac{1}{3}$ rd of the expenses of the deceased on himself, monthly dependency comes to Rs. 330/-, but we make it Rs. 350 to round up the figure. Thus, the yearly multiplicand comes to Rs. 4,200/- to which we apply the multiplier of 16, then total amount comes to Rs. 67,200/-. To this, a sum of Rs. 10,000/- be added by way of consortium to the widow and Rs. 600/-towards the damages to the bicycle. Thus, compensation comes to Rs. 77,800/- in all, to this, we add Rs. 200/- to round up the figure to Rs. 78,000/- which shall be payable to the claimants as compensation.

11. Besides, the claimants in both the cases shall be entitled to interest on the amount of compensation so arrived at the rate of 12 per cent per annum from the date of application till payment and also the costs of this appeal which we quantify at Rs. 1,000/- in each case. The insurance company shall deposit the total amount of compensation with interest and the costs so awarded, of course, after the adjustment of the amount already deposited by the insurance company towards compensation and proportionate interest. The insurance company shall deposit the amount within a period of two months, failing which the insurance company shall be liable to pay interest at the rate of 18 per cent per annum till the date of deposit.

12. On deposit of the amount by the insurance company, as directed above, in both matters, the Tribunal disburse the amount to the claimants keeping in mind the interest of the minors.

13. The appeals are disposed of in the light of the directions contained herein-above.