

(2005) 07 MP CK 0089
In the Madhya Pradesh High Court

Govind Singh and Others

APPELLANT

Vs

Amarjeet Singh and Others

RESPONDENT

Date of Decision : 20-07-2005

Acts Referred:

Citation : (2006) 2 ACC 379

Hon'ble Judges : Shravan Shanker Jha, J;P.K Jaiswal, J

Bench : Division Bench

Judgement

S.S. Jha, J.—This appeal is filed for enhancement of compensation by parents, sisters and brothers of deceased Abhishek Bhadoriya.

2. Deceased was aged about 13 years and he was studying in Class VIII. It is pleaded that he was earning Rs. 2,000 per month from carpet manufacturing. Appellants 1 and 2 are the parents and appellants and 3 to 5 are sister and brothers of the deceased. Claims Tribunal has awarded compensation of Rs. 60,000 only. It is an admitted position that the deceased was studying in Class VIII and was less than 14 years of age. Though it is pleaded that he was earning Rs. 2,000 per month, but other than the evidence of parents, there is no evidence on record to show that he was allowed to work in a carpet factory. Owner of the carpet factory has not been examined. Under the law, child labour is prohibited. Therefore, unless cogent evidence is on record to show that in spite of prohibition 13 years" child has been permitted to work of labour and his employer is examined, no presumption can be drawn that the deceased was earning Rs. 2,000 per month. At any rate, income of the deceased can be determined at Rs. 15,000 per annum as notional income. Since the deceased was dependent upon his parents and was studying in Class VIII, therefore, at the time of the death his parents cannot be said to be dependent upon him. However, there is likelihood that in future parents may be dependent upon him. But the fact cannot be ignored that the deceased, had he lived, would have acquired family after marriage and raised his family and spent most of his income upon his family. Therefore, dependency of the parents can safely be

determined at 1/3rd of the income of the deceased. In the claim petition, age of father of the deceased is mentioned as 40 years and age of mother is mentioned as 38 years. In a case of compensation for a child below 15 years, lesser multiplier of 15 will be applicable. On applying the multiplier of 15, compensation is determined at Rs. 75,000. Over and above, further sum of Rs. 25,000 is awarded towards damages under various heads such as loss of estate, funeral expenses etc. and the compensation is determined at Rs. one lac. Claimants will also be entitled for interest at the rate of five percent per annum on the enhanced amount of compensation from the date of filing of the appeal.

3. Claimant-appellants 1 and 2 only shall be entitled for compensation and claimant-appellants 3 to 5 will not be entitled for any compensation.

4. Appeal succeeds in part and is allowed. There shall be no order as to costs.