
(1994) 12 MP CK 0011

In the Madhya Pradesh High Court

Case No : M.A. No. 184 of 1992 & Miscellaneous Appeal No. 184 of 1992

Jahina Akhtar Hasmi and Others

APPELLANT

Vs

Guljar Singh and Others

RESPONDENT

Date of Decision : 02-12-1994

Acts Referred:

Citation : (1995) 1 ACC 511 : (1995) 40 MPLJ 901

Hon'ble Judges : T.S. Doabiya, J

Bench : Single Bench

Judgement

T.S. Doabiya, J.

The father and son were proceeding--towards Gwalior from Shivpuri on scooter No. CIH 4494. A fatal accident took place. A truck bearing No. DIL 8100 was the cause of the accident. The father died on the spot whereas the son died on his way to hospital. Two claim petitions were preferred. This appeal is with regard to the compensation awarded on account of the death of the son namely Naved Hasmi. The appellants are the mother, two sisters and the younger brother. On account of the death of the father, the above claimants were compensated to the extent of Rs. 1,35,800/- whereas on account of the death of the son referred to above, the Tribunal ordered payment of compensation to the extent of Rs. 25,000/-. It is the assessment of this amount which has been challenged in this appeal.

The deceased was a student of Class VIII. According to the mother, the deceased was a meritorious student and good sportsman. Certificates Ex. A/9 to A/13 have been placed on the record. The mother has stated that had the factum of death not intervened an all out effort would have been made to see that the deceased got medical education. It is on this premises, the amount of compensation amounting to Rs. 50,000/- has been claimed.

The claimants want compensation to be fixed by taking into consideration the multiplier method. However, this is not the permissible mode. The compensation

in such cases is not on the basis of pecuniary loss but it has to be paid mostly to take care of mental shock to the parents. Apart from this, while trying to assess the mental shock, the age of the child, the number of the children, the sex to which the child belonged, are some of the relevant factors. The financial status of the family may also be a relevant factor. Some of the judicial pronouncements awarding compensation in such cases may be noticed.

(i) in *Hira Devi v. Bhaba Kanti Das* 1977 ACJ 293, the compensation was fixed at Rs. 12,000/-. In this case death of a boy of aged 12 years took place.

(ii) In *Manmohan Sarup Kaushal v. Mala Ram* 1977 ACJ 140, a sum of Rs. 8,000/- was awarded for death of a girl aged 11 years.

(iii) In *Basanta Kumar Sahu v. Shyamsunder Agarwalla* 1911 ACJ 359, the amount of compensation was fixed at Rs. 8,000/- when the death of a boy aged about 5 years took place.

(iv) In *Beliya v. MPSRT Corporation, Bhopal* 1977 ACJ 362 (M.P.), a sum of Rs. 4,000/- was awarded for the death of a boy aged 7 years.

(v) In *Neelakantanchari Velayudhanachari v. Kerala State Road Trans. Corporation* 1977 ACJ 474 (Kerala), a sum of Rs. 5,000/- was awarded for the death of a girl aged about 12 years.

(vi) In *M.P. State Road Transport Corporation v. Yasin* 1974 ACJ 358 (M.P.), compensation of Rs. 15,000/- was awarded when the death of a boy aged 12 years took place.

(vii) However, in the recent years, compensation has been fixed at higher rates. Thus, in *M.P. State Road Transport Corporation v. Annapureddy Gurava Reddi* 1984 ACJ 451 (A.P.), compensation was fixed at Rs. 18,000/-, where the death of a boy of 9 years took place.

(viii) In *Rashid Husain v. Union of India* 1984 ACJ 635, a sum of Rs. 20,000/- was awarded by way of compensation when the death of a boy aged 5 years took place.

(ix) In *Kanhaiyalal and Anr. v. Dr. Anil Kumar and Anr.* 1989 ACJ 713, this Court fixed the compensation of Rs. 30,000/- for the death of a boy aged 12 years.

(x) In *Prem Lal Shriwas v. Manager, Perfect Pottery*, 1993 ACJ 1069 and in *Prem Lal Shriwas and Another Vs. Manager, Perfect Pottery and Others*, compensation was awarded at Rs. 35,000/- and Rs. 40,000/- when the deceased was aged 9 years and 14 years, respectively.

Coming to the facts of the present case, it has been on record that the deceased was the eldest child in the family. He was a good sportsman. He was aged 12 years. Taking all the facts and circumstances of this case, there can be no doubt that this was an accident where two male members of the family lost their lives. The shock to the mother would be very grave. The accident took place in 1987.

In this view of the matter, it would be just and proper to enhance the compensation amount by Rs. 10,000/- This would be in line with the recent trend as reflected from the decision of this Court in the case of Kanhaiyalal and Anr. (supra). The claimants would be entitled to interest at the rate of 12% per annum on the above amount. This appeal is allowed to the extent indicated above.