

(1990) 12 MP CK 0031
In the Madhya Pradesh High Court
Case No : M.A. No. 8 of 1988

Kale Khan

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 07-12-1990

Acts Referred:

Constitution of India, 1950 — Article 21
Motor Vehicles Act, 1988 — Section 140

Citation : (1991) ACJ 1049

Hon'ble Judges : S.K. Dubey, J

Bench : Single Bench

Advocate : N.D. Singhal, for the Appellant; N.P. Mittal and R.A. Roman, for the Respondent

Judgement

S.K. Dubey, J.—This appeal u/s 110-D of the Motor Vehicles Act, 1939 (for short "the Act") by the claimant for enhancement of the compensation awarded by the Motor Accidents Claims Tribunal, Shivpuri, in Claim No. 16 of 1984, directing to pay compensation of Rs. 15,000/- with interest at the rate of 12 per cent per annum for the death of one Kaloo Bai, the claimant's wife who died in a motor accident by the use of motor vehicle No. MPG 8140 on 27.4.1984.

2. The Tribunal found that the deceased was a non-earning old disabled lady of 55 years of age having a hunchback, hence a minimum amount of compensation fixed u/s 92-A of the Act, for "no fault liability" cases was awarded.

3. Mr. N.D. Singhal, counsel for the appellant, took this court to the statements of Kale Khan, PW 1 and Kashiram, PW 2, wherein the witnesses have stated that the deceased was getting monthly pension from the Government fixed for handicapped or disabled persons. Besides, the deceased was also earning Rs. 5/- to Rs. 10/- per day as vegetable vendor. While determining the compensation the Tribunal ignored this material evidence about earnings of the deceased. Mr. Singhal also submitted that new section of Motor Vehicles Act, 1988, in cases of "no fault liability" provides minimum amount of compensation as Rs. 25,000/-,

therefore, in an appeal the amount deserves to be enhanced from Rs. 15,000/- to Rs. 25,000/-. Learned counsel pressed into service a decision of this court in Ram Singh and Others Vs. Sheikh Sikandar and Another, and a decision of the Supreme Court in Parmanand Katara v. Union of India 1990 ACJ 1021 (SC).

4. After hearing appellant's counsel and Mr. N.P. Mittal and Mr. R.A. Roman, counsel for respondents, who supported the award and submitted for dismissal of the appeal. I am of the opinion that the submission of Mr. Singhal for enhancing amount of compensation from Rs. 15,000/- to Rs. 25,000/- deserves consideration.

5. For a human life, whether of a poor or rich, the compensation of Rs. 15,000/- now is low even in the eyes of law and that is why the Parliament legislated that in "no fault liability" cases, amount of compensation of Rs. 15,000/- fixed u/s 92-A is low, hence enhanced the amount from Rs. 15,000/- to Rs. 25,000/- u/s 140 of Motor Vehicles Act, 1988. The provision of minimum amount of compensation is a piece of welfare legislation, has to be interpreted liberally, and, its intendment and analogy can be applied by the High Courts, while deciding appeal or cases, on the principle that compensation on merits, which is largely based on guesswork and on some mental exercise, must be in accord with the principle that the compensation for loss of life, if not more, has to be at least Rs. 25,000/-.

6. In the case of Ram Singh and Others Vs. Sheikh Sikandar and Another, (MP), R.K. Verma, J. while disposing the appeal arising out of an accident on 10.12.1987 relying on Rukmabai v. Ramlal 1988 ACJ 351 (MP), awarded compensation of Rs. 25,000/- as provided u/s 140 of Motor Vehicles Act, 1988 as minimum compensation.

7. In the case of Parmanand Katara 1990 ACJ 1021 (SC), the Supreme Court observed that:

... a basic minimum compensation commensurate to the meaning of life in Article 21 of the Constitution should be provided in respect of motor accidents when death takes place. Under the Motor Vehicles Act, 1988, no fault liability has been fixed at Rs. 25,000/-. We are of the view that taking into consideration the compensation provided when such death takes place while travelling by railway or by air, the amount of Rs. 25,000/- provided for no fault liability in the Motor Vehicles Act, should be enhanced. We commend that early steps may be taken in this regard.

8. Though the Tribunal at the relevant time by invoking Section 92-A awarded minimum compensation of Rs. 15,000/- but, as the matter has come up in appeal for enhancement of compensation and the change in law has taken place, this court is bound to take a note of such change, particularly in view of Parmanand's case 1990 ACJ 1021 (SC), which commended for enhancement of the minimum amount of compensation fixed u/s 140 of Motor Vehicles Act, 1988, I am of the opinion that in appeal, the compensation deserves to be enhanced from Rs. 15,000/- to Rs. 25,000/- which, according to the Apex Court, is still low

and the Parliament has not yet enhanced the minimum compensation, hence, this court cannot award more compensation than as provided u/s 140 of the Motor Vehicles Act, 1988, which would be just and proper compensation in the facts of the case.

9. At this stage, Mr. Mittal, learned counsel for respondent No. 1, states that the total amount awarded by the Tribunal with interest has been deposited with the Tribunal, if that is so, the balance amount of Rs. 10,000/- shall further be deposited within six weeks from today with accrued interest at the rate of 12 per cent per annum from the date of application till deposit.

10. In the result, the appeal is partly allowed and the award of the Tribunal is modified as indicated hereinabove. Counsel's fee Rs. 200/-, if already certified.