(2008) 10 MP CK 0004

In the Madhya Pradesh High Court

Kalpana Shrivastava and Others APPELLANT

Vs

Pawan Kumar Sharma and Others RESPONDENT

Date of Decision : 20-10-2008

Acts Referred:

Citation : (2009) ACJ 2188

Hon'ble Judges : S.M. Samvatsar, J;Indrani Datta, J

Bench : Division Bench

Judgement

S. Samvatsar, J.—This appeal is preferred by the claimants being aggrieved by the award dated 12.3.2001 passed by the Member Judge, Motor Accidents Claims Tribunal, Guna in Claim Case No. 76 of 1997, whereby the Claims Tribunal has awarded a sum of Rs. 2,00,000 in lump sum to the claimants for the death of the deceased Santosh Kumar Shrivastava, who died on 18.4.1996 in the motor accident.

2. The facts in a nutshell are that on 18.4.1996 the deceased Santosh Kumar Shrivastava along with his family members was going in a jeep bearing registration No. MP 08-A 8664 to a temple at Beenaganj for worship near village Gader on A.B. Road. The said jeep turned turtle due to negligence of the driver, in which Santosh Kumar Shrivastava sustained injuries and died. After his death, the claimants, who are the widow, son and daughter, filed an application for compensation before the Claims Tribunal. The Claims Tribunal held that the deceased was 33 years of age and was earning Rs. 1,400 per month and awarded compensation of Rs. 2,00,000 to the claimants without applying multiplier. Hence, this appeal.

3. Contention of Mr. S.K. Shrivastava, learned Counsel for the appellants is that the findings arrived at by the Claims Tribunal about the age and income of the deceased are erroneous. Thus, the only question involved in the appeal is about quantum. Hence, this Court need not burden the judgment by referring the other issues regarding negligence or liability of the insurance company.

4. Learned Counsel for the appellants has further contended that the amount of compensation awarded by Claims Tribunal is on lower side, hence the compensation be enhanced accordingly. On the other hand Mr. B.K. Agrawal, learned Counsel for the insurance company supported the impugned award and contended that the amount of compensation is just and proper.

5. The first question to be determined in this case is about the age of the deceased. According to the claimants, the deceased was 28 years of age at the time of accident. The Claims Tribunal found that in the postmortem report the age of the deceased is mentioned as 30 years. The Claims Tribunal further found that as per the certificate of Higher Secondary School, which is on record, the date of birth of the deceased was 10.1.1967 while the date of accident is 18.4.1996. Thus, it is clear that age of the deceased was between 25-30 years at the time of accident. Finding of the Claims Tribunal that the deceased was 33 years is without any merit and the same cannot be sustained in the eyes of law. Hence, the said finding is hereby set aside and we hold that the deceased was about 29 years of age at the time of accident.

6. So far as income of the deceased is concerned, the claimants have produced a certificate, Exh. P10, which shows that the deceased was working as Chief Executive Officer in Ashamma Finance & Investment Co. Ltd. at Bina and Guna and was getting Rs. 8,000 per month towards salary. The Claims Tribunal has assessed the income of the deceased at Rs. 1,400 per month only on the basis that the said company had closed after the death of the deceased. This reasoning of the Claims Tribunal cannot be accepted because the deceased was the Chief Executive Officer of the said company and it appears that he was the sole responsible officer of the company and after his death it is quite natural that the company has gone into loss. The salary certificate shows that the deceased was earning Rs. 8,000 per month and the claimants themselves have claimed that salary of the deceased was Rs. 6,000 per month. Hence, we assess his income at Rs. 6,000 per month and not Rs. 8,000 per month. Thus, yearly income comes to Rs. 72,000. After deducting one-third amount, his dependency comes to Rs. 48,000 per annum. The deceased was aged between 25-30 years, hence multiplier of 18 will be applicable. After applying the multiplier of 18, compensation will come to Rs. 8,64,000. Apart from this, claimants are also entitled to a further sum of Rs. 11,000 under various heads, i.e., for funeral expenses, love and affection, loss of consortium, etc. Thus, total compensation comes to Rs. 8,75,000 (rupees eight lakh seventy-five thousand). The enhanced amount shall carry interest at the rate of 6 per cent per annum in place of 8 per cent from the date of filing of appeal till its realization, as the appeal was dismissed in default for want of prosecution and was restored thereafter.

7. Accordingly, appeal is partly allowed with the aforesaid. No costs.

