
(2004) 04 MP CK 0006
In the Madhya Pradesh High Court

Ku. Hema and Others

APPELLANT

Vs

Surjeet Singh and Others

RESPONDENT

Date of Decision : 21-04-2004

Acts Referred:

Penal Code, 1860 (IPC) — Section 279, 304A, 337, 338

Citation : (2004) 3 ACC 222

Hon'ble Judges : P.C. Agarwal, J

Bench : Single Bench

Judgement

P.C. Agarwal, J.—On 22.4.1998 deceased Vijay Singh was driving jeep No. R.J./27/C/6632 between Nimbhaheda and Bhidar. The truck No. D.L./1/GB/ 1348 dashed the jeep from the front side causing death of Vijay Singh and serious injuries to the passengers of the jeep. Truck driver Surjeet Singh (R-1) was arrested and prosecuted under Sections 279, 337, 338 and 304A of the Indian Penal Code by police, Jawad. The Tribunal held the truck driver guilty of negligence. It held the truck owner (R-2) and Insurance Company (R-3) liable to pay compensation. Truck driver (R-1) and owner (R-2) did not contest. Insurance Company (R-3) did not file cross-objection or cross-appeal. Thus, all these points are no longer in controversy in the present appeal.

2. The claim was filed by the father Sajjan Singh and grand-mother Sunderbai (A-3). The father of deceased died during the pendency of claim and his legal representatives Ku. Hema (A/1) and Ku. Kanta (A-2) were substituted in his place. The Tribunal held that the grand-mother Sunderbai (A-3) and unmarried daughters of the deceased cannot be called to be dependents of the deceased and thus, an amount of Rs. 75,000/- in lump-sum was awarded instead of applying the multiplier system. The appellants had claimed that their father Sajjan Singh had already filed the claim and they being dependents on their father, they did not submit a separate claim but they were dependents and could look forward to the earning of the deceased for their livelihood and for their marriages etc. and thus, Tribunal below should have adopted the multiplier

system based either on the age of the deceased or the age of the father who was the claimant. On the other hand respondent No. 3 has claimed that Sajjan Singh the father had died during the pendency of claim thus normal multiplier could not be applied in this case. Father the unmarried appellant Nos. 1 and 2 had not joined the claim and from the beginning they have not proved to be dependents on their brother. However, joint family system prevails in Madhya Pradesh and it is well known fact that father and son take the joint responsibility for up-bringing and marriages of the daughters of the family. Death of the father Sajjan Singh was sudden and unconnected with any ailment suffered by him not affecting the application of prescribed multiplier. Thus, there has been no substance in the argument of the Insurance Company (R-3).

3. Certainly as the claimant father was elder to the deceased multiplier for assessment of compensation had to be chosen on the basis of age of the father. National Insurance Co. Ltd. Vs. Raj Kumari and Another, ; Rukmani Bai and Others Vs. Prahlad Singh and Another, ; and National Insurance Co. Ltd. Vs. Shri Chand Ratan and others, . Certainly, the deceased had been a jeep driver by profession. It could not be held that there had been no monetary loss to the family. In it was not necessary to prove that the father was dependent on his son. Certainly, he could look forward to the earning of the son in his old age when he becomes disabled. In National Insurance Co. Ltd. Vs. Dwijesh Kumar Dutta and Others, relying upon General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others, , H.S. Ahammed Hussain and Another Vs. Irfan Ahammed and Another, , and U.P. State Road Transport Corporation and Others Vs. Trilok Chandra and Others, ; it was held that the age of the parent has to be the basis on which multiplier system could be applied.

4. In the present case conclusions of the Tribunal below that the monthly income of the deceased had been Rs. 2,500/-out of which Rs. 1,000/-had to be deducted as personal expenses i.e., dependency was at Rs. 15,000/- or Rs. 18,000/- per year. Sajjan Singh the father had been of 48 years of age, multiplier of 13 could have been applied to such a case. Thus, an amount of compensation should have been Rs. 18,000/- x 13: Rs. 2,34,000/- besides that Rs. 2,000/- for funeral expenses and Rs. 2,500/- for loss of estate as a conventional figure should have been allowed. However, appellants have confined their claim in this appeal to only Rs. 1,00,000/-. Thus, an enhancement of Rs. 1,00,000/- (Rupees one lac only) is allowed with interest @ 9% per annum since the date of claim i.e., 30.7.1998, besides the amount already awarded by the Tribunal below.

5. Thus, appeal allowed in part.