

(2000) 03 MP CK 0020

In the Madhya Pradesh High Court

Case No : Miscellaneous Appeal No. 257/96

Kushal and Another

APPELLANT

Vs

M.P. State Road Transport Corporation and Others

RESPONDENT

Date of Decision : 30-03-2000

Acts Referred:

Penal Code, 1860 (IPC) — Section 304A

Citation : (2000) 4 MPHT 360

Hon'ble Judges : Bhawani Singh, C.J.;A.K. Mishra, J

Bench : Division Bench

Advocate : Sanjay K. Agarwal, for the Appellant; Yogesh Dhande, for the Respondent

Final Decision : Allowed

Judgement

Bhawani Singh, C.J.—This appeal challenges the award dated 17-1-1996 of the IV Additional Motor Accidents Claims Tribunal, Mungeli in Claim Case No. 7 of 1994.

2. On 1-4-1994, deceased Ram Kumar (30) was crossing the road for going towards Daupara Mungeli Booking Office for getting ticket. At that time, the bus bearing No. M.K.H. 7551 belonging to the respondent M.P. State Road Transport Corporation driven by Raghuraj Singh, Driver in a rash and negligent manner struck against the deceased Ram Kumar. As a result, Ram Kumar died on the spot. The matter was reported to the Police and First Information Report No. 84/94 was registered and challan filed for offence u/s 304A Indian Penal Code.

3. At the time of accident, deceased was 30 years old, his parents were dependent on him, he was married, so also his wife. He was doing the business of repair of radios and televisions and was earning Rs. 100.00 per day and on account of death of Ram Kumar, the claimants have been rendered without livelihood. Father of the deceased is 60 years old while mother is 55 and widow, Smt. Ahilyabai is 19. It was contended that due to the death of Ram Kumar, the

family has sustained big loss; therefore, they are claiming one lac for pains and suffering, rupees ten thousand for funeral expenses, and rupees six lacs ten thousand for loss of income taking to total of Rs. 7,20,000.00.

4. The claim has been opposed and it is stated in defence that the claimants were not dependent upon the deceased, he was not earning Rs. 100.00 per day, he died due to his negligence, driver was driving the vehicle carefully, medical expenditure of Rs. 10,000.00 is not correct and that the deceased could not earn for thirty years. The Tribunal held that the bus in question was being driven rashly and negligently and it hit the deceased resulting into his death. Accordingly, the Tribunal worked out the total compensation of Rs. 1,55,000.00 and passed the award of compensation with interest at the rate of 12% per annum from the date of award. Being aggrieved by the said award, the present appeal is filed.

5. Learned counsel Shri Sanjay K. Agarwal, appearing for the appellants submits that the award does not pay just compensation to the claimants and therefore, it is liable to be modified and the amount of compensation increased. Learned counsel submits that dependency has not been correctly arrived at nor proper multiplier has been applied. It is also submitted that payment of interest from the date of award is not correct and it ought to have been given from the date of application till the date of payment. These submissions have been repudiated by Shri Yogesh Dhande, learned counsel appearing for the respondents 1 and 2. Learned counsel submits that the Tribunal has assessed just compensation after application of proper multiplier. The award is therefore correct and does not warrant any modification.

6. After considering the respective submissions of the learned counsel for parties, we are of the opinion that the case has not been correctly decided by the Tribunal. Evidence shows that the deceased was earning Rs. 100.00 per day. Out of this, he was spending a sum of Rs. 50.00 on his family. This evidence has not been rebutted by the other side. Therefore, dependency has to be taken as Rs. 50.00 per day: Rs. 1500.00 per month: Rs. 18,000.00 per annum. In this case reasonable multiplier should be seventeen. Thus the amount of compensation comes to Rs. 3,06,000 (Rs. 1500.00 x 12 x 17). In addition, the claimants shall be entitled to Rs. 2000.00 towards funeral expenses. Smt. Ahilyabai is the widow of deceased. At the time of accident, she was 19 years old. At this young age, she lost her husband due to the negligence of the respondent No. 2. She is deprived of the company of her husband. Consequently she is entitled to the consortium and, therefore, she is entitled to a sum of Rs. 5000.00 under this head, - taking the total compensation to Rs. 3,13,000.00 (Rupees three lacs thirteen thousand only) payable with interest at the rate of Rs. 7% per annum (seven percent) from the date of application till the date of payment. The amount of compensation awarded is ordered to be paid in the following ratio :

(i) Fifty percent of Rs. 3,08,000.00 with interest to :

(1) Kushal s/o Chhedi Satnami and

(2) Smt. Daiyabai w/o Shri Kushal Satnami Appellants.

(ii) Remaining fifty percent as well as the sum of Rs. 5000.00 awarded under the head of consortium with interest: to respondent No. 3 Smt. Ahilyabai widow of Ram Kumar. The aforesaid amount of compensation shall be paid within a period of two months from today, otherwise it will carry interest at the rate of 10% (ten percent) per annum from the date of accident till the date of payment.

7. Appeal is accordingly allowed, leaving parties to bear their own costs.