
(2011) 12 MP CK 0079
In the Madhya Pradesh High Court
Case No : M.A. No. 5262 of 2007

Kusum Kali Seyam and Others

APPELLANT

Vs

Balwant Singh and Others

RESPONDENT

Date of Decision : 13-12-2011

Acts Referred:

Motor Vehicles Act, 1988 — Section 166, 173

Citation : (2013) 2 ACC 645 : (2013) ACJ 955

Hon'ble Judges : J.K. Maheshwari, J

Bench : Single Bench

Advocate : Avtar Singh, for the Appellant; Gulab Sohane, for the Respondent

Final Decision : Allowed

Judgement

J.K. Maheshwari, J.—Assailing the award dated 22.9.2007 passed by Eleventh Additional Motor Accidents Claims Tribunal, Jabalpur in Claim Case No. 181 of 2005 on the point of inadequacy of the compensation, the appellants have preferred this appeal u/s 173 of the Motor Vehicles Act, 1988. Appellants had filed the claim petition u/s 166 of the Motor Vehicles Act, 1988 seeking compensation to the tune of Rs. 16,10,000 on account of death of deceased Parsadi Lal in an accident that took place on 21.2.2005. It was pleaded by the claimants, i.e., widow, kids, father and mother that the sole bread-earner of the family has died in the accident having his earnings from the job of Upper Division teacher, however compensation as prayed for in the claim petition may be awarded.

2. The reply to the claim petition was filed and after recording the evidence, the Claims Tribunal has awarded the total sum of Rs. 1,74,300 out of which for loss of dependency Rs. 1,60,000 accepting the earnings of the deceased to be Rs. 15,000 per annum, applying the multiplier of 16 and after deducting 1/3rd towards personal expenses. The Claims Tribunal has also awarded some amount under conventional heads, i.e., funeral Rs. 2,000, consortium Rs. 5,000, publication Rs. 1,800, transportation Rs. 3,000 and loss to estate Rs. 2,500 by

the impugned award.

3. As the incident occurred, negligence of driver in driving the offending vehicle, the issue of liability jointly and severally to pay compensation have been decided recording the findings in favour of the appellants by the Tribunal and none of those findings have been assailed at the instance of the respondents, i.e., owner, driver or insurance company by filing the cross-appeal or cross-objection, however it is not necessary to narrate the entire facts in detail to burden the judgment on the said issues. It is only the inadequacy of the compensation which has been assailed, however the arguments in detail have been considered in succeeding paras.

4. Mr. Avtar Singh, the learned counsel representing the appellants, contends that due to the said accident Parsadi Lal died, who was the sole bread-earner of the family. The compensation awarded by the Tribunal is inadequate, because the earnings has not been duly assessed and the multiplier has also not been properly applied while determining the loss of dependency. Under conventional heads, i.e., funeral, consortium, love and affection, loss to the estate the amount as awarded is on lower side and deserves enhancement. In view of the foregoing submissions, the enhancement of compensation so awarded by the Tribunal has been prayed for.

5. On the other hand, Mr. Gulab Sohane, learned counsel representing the respondent insurance company, contends in support of the findings of the Claims Tribunal and submitted that the compensation as awarded by the impugned award appears to be just and reasonable, however, interference by this court for enhancement of the compensation is not warranted.

6. After having heard learned counsel appearing for the parties and considering the pay slip (Exh. P19), in the opinion of this court, the deceased was Upper Division teacher in Madhyamik Shala Mudki, Dindori. His actual salary was Rs. 9,880 which annually comes to Rs. 1,18,560. Looking to the dependency if Rs. 39,520 is deducted as 1/3rd, loss of dependency per annum comes to Rs. 79,040. Looking to the age, if it is multiplied by 13, total amount comes to Rs. 10,27,520. Because the deceased was in between the age 45-50 if Rs. 1,00,000 is added, it comes to Rs. 11,27,520. If Rs. 25,000 is further added under conventional heads, i.e., funeral, consortium, loss of love and affection, loss to estate, the total amount of compensation comes to Rs. 11,52,520. If the amount so awarded by the Tribunal Rs. 1,74,300 is deducted, then enhanced amount comes to Rs. 9,78,220 which shall be payable along with interest at the rate of 6 per cent from the date of filing of the claim petition. In view of the foregoing discussions, the appeal succeeds and is hereby allowed in part. Appellants are held entitled to receive the enhanced amount of Rs. 9,78,220 in addition to the amount of compensation already awarded by the Claims Tribunal making total compensation Rs. 11,52,520. The enhanced amount shall carry interest at the rate of 6 per cent per annum from the date of filing of claim petition till its realization. The said amount be paid within a period of three months from the

date of the award otherwise interest at the rate of 7.5 per cent shall be leviable. In the facts of the case, parties are directed to bear their own costs.