

(1991) 10 MP CK 0042
In the Madhya Pradesh High Court
Case No : M.A. No. 245

M. P. State Road Transport Corporation	APPELLANT
Vs	
Smt. Vimla Sharma and Others	RESPONDENT

Date of Decision : 09-10-1991

Acts Referred:

Motor Vehicles Act, 1939 — Section 11D

Citation : (1993) 2 MPJR 291

Hon'ble Judges : S.K. Dubey, J;R.C. Lahoti, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

R.C. Lahoti, J.

The appeal u/s 11-D of the Motor Vehicles Act, 1939 has been preferred by the owner and driver of motor bus met with accident challenging the impugned award and seeking complete exoneration or at least reduction in the amount of award alternatively. The claimant/respondents have preferred cross-objections seeking an enhancement in the amount of compensation.

It is not disputed that late Satnam Singh has expired on 6-1-83 at about 3-20 P. M. at Bahodapur locality of the city of greater Gwalior having met with an accident by bus CPH No. 8190 owned by the appellant No. 1 and driven by appellant No. 2 at the time of the accident. The Tribunal upon an evaluation of the evidence has found that the cause of the accident was rash or negligent driving of the bus by appellant No. 2 and that finding is unassailable.

The Tribunal has assessed the dependency of the claimants of the deceased at Rs. 900/- per month as the age of the deceased at the time of his death was 35 years and he was employed with the Food Corporation of India, the Tribunal has chosen to adopt a multiplier of 12 and thereby calculated and fixed the dependency at Rs. 1,29,600/-, compensation for loss or consortium and society has been assessed at Rs. 10,000/-. Thus the total amount of compensation has

been fixed at Rs. 1,39,600/- and that amount has been awarded with interest at the rate of 9 per cent annum from the date of the application till the date of realisation.

Having heard the learned counsel for the parties, we find that there is no merit in the appeal preferred, but the cross-objection deserves to be allowed partly.

The learned counsel for the claimants has relied on a number of decisions suggesting the quantum of reasonable compensation which ought to have been awarded in the cases at hand by reference to the comparable cases. We need not burden our order by plethora of precedents. It would suffice to notice a Division Bench decision of this Court in the State of M. P. v. Ashadevi AIR 1989 MP 93 wherein having referred to the law available on the point, the Division Bench has held : that where the deceased was in his 30s and/or 40s the proper multiplier to be selected was of 15.

We are also of the Opinion that a reasonable and suitable multiplier having been chosen it was not necessary to have awarded compensation separately under the head of loss of consortium and society.

As to the demand for still higher amount forcefully pressed and canvassed by the learned counsel for the claimants/respondents we usefully refer to the observations of Lord Denning MR in *Lim v. Camden Health Authority* (1979) 1 All ER 332 quoted with approval by a Division Bench of Kerala High Court in *Valiyakathodi Mohammed Koya Vs. Ayyappankadu Ramamoorthi Mohan and Others*, viz. :

...fair compensation must mean that she is to be kept in as much comfort and tended with as much care as compensation for her so rightfully demands; and that she should not want for anything that money can buy. But I see no justification in law Or in morals in awarding to her large sums of money in addition to those needed to keep her in comfort.

The Division Bench of Kerala High Court sounding a note of caution on the part of the Court to assure that the sum to be awarded was fair and reasonable observed :

We may also indicate that certain personal injury cases that come before us reveal that the trial Judge/Judges often take/takes an approach that the defendants are wrong doers; so they make them pay up in full with the feeling that they do not deserve any consideration. We do not agree. It is a "tendentious way of putting the case". The foundation of the question of compensation to be determined may have been due to a pardonable error of quick judgment at an unexpected unfortunate point of time such as may befall any one of us. We say this so as to remove the misapprehension so often repeated that the injured or the claimants of the deceased are entitled to be fully compensated for all the loss and detriments suffered. We feel that it is not the correct law. The victim or the claimants or the victim are only entitled to what is, in the circumstances a fair

compensation, fair both to the victim and to the tort easer. In a way the respondents (defendants) should not be treated as wrong doers. Some of them are only vicariously liable. When the amount is paid by the Insurance Company and the Statute insists so, we have to consider the impact of the same. We feel that it is worth recording the wise words of Parke B over a century ago :

Scarcely any sum could compensate a labouring man for the loss of a limb, yet you do not in such a case give him enough to maintain him for life.... You are not to consider the value of existence as if you were bargaining with an annuity office.... I advise you to take a reasonable view of the case and give what you consider fair compensation.

[See *Armsworth v. South Eastern Railway Co.*, (1847) 11 Jur. 758 at 760 quoted with approval by Brett, J. in *Rowley v. London and North Western Railway Co.*, (1973) LR 8 Exch. 221 at 230 and approval in the leading case of *Phillips v. London and South Western Railway Co.* (1878) 5 QBD 78 at 79]

It may be noted that having made an independent evaluation of evidence we are satisfied that the figure of dependency assessed at Rs. 900/- a month by the Tribunal is very reasonable and we see no reason to interfere with that finding either way. Adopting the multiplier of 15 and holding dependency at Rs. 10,800/- per annum, we appoint the figure of compensation at Rs. 1,62,000/- in supersession of Rs. 1,39,600/- as appointed by the Tribunal.

In so far as the rate of interest is concerned the law is very well settled that it should have been fixed at 12% per annum. See, *Narcinva V. Kamat and Another Vs. Alfredo Antonio Doe Martins and Others*, and *Ashadevi* (supra).

For the foregoing reasons the appeal is held to be without any merit and is dismissed. The Cross-objections are partly allowed. In supersession of the award of the Tribunal, it is directed that the claimant/respondents shall be entitled to an award of Rs. 1,62,000/- with interest calculated at the rate of 12 per cent per annum from the date of application i. e. 8-4-1983 till the date of realisation, subject to adjustment for the amount already recovered. The appellants shall bear their own costs and shall also pay that of the claimants/respondents in both the Courts. Costs of this appeal are quantified at Rs. 500/.