(2003) 04 MP CK 0104

In the Madhya Pradesh High Court

Mahila Shanti Devi and Others APPELLANT

Vs

Chambal Rural Development Company and Others RESPONDENT

Date of Decision : 02-04-2003

Acts Referred:

Citation : (2004) 1 ACC 240

Hon'ble Judges : S.S. Jha, J;Chandresh Bhushan, J

Bench : Division Bench

Judgement

S.S. Jha, J.—This appeal is by claimants for enhancement of award.

2. On 27th June, 1992, at about 10.00 in the night, jeep No. M.P. 07/B-724 was plying from Gwalior towards Morena. The jeep dashed against a truck which was standing by the side of road. On account of accident, Roopram, who was travelling in the jeep, died on spot. Petitioners had filed petition for claiming damages before the Third Additional Motor Accident Claims Tribunal, Morena (hereinafter referred to the "Tribunal"). The Tribunal awarded compensation of Rs. 1,68,600/- to claimants. The Tribunal has recorded a finding that monthly income of deceased was Rs. 1,311/-. On the basis of income of Rs. 1,311/- per month the dependency was determined at Rs. 800/-, and multiplier of 16 was applied to determine the compensation.

3. Counsel for appellants submitted that the Tribunal has not considered the future prospects and future increase in salary of deceased. Deceased was a Government servant and there were every chance of his future promotion and future prospect, which has not been considered. The deductions have wrongly been considered by the Claims Tribunal and it is submitted that carry home come of Roopram should not be considered. Counsel for appellants submitted if deceased continued in service then his pay would have increased to Rs. (sic)/- today. This future prospect should have been considered by the Tribunal. Counsel for appellants further submitted that since the deceased was in Government service his pay is liable to be revised after the Vth Pay Commission and he was entitled to some promotion and his income is likely to increase. This aspect of

the income has not been considered by Claims Tribunal.

4. Counsel for Insurance Company submitted that the jeep was being plied for reward or hire, and, therefore, the Insurance Company is not liable to pay compensation. As per the insurance policy, Insurance Company is liable to pay compensation for the terms mentioned in the policy and Insurance Company is not liable to pay compensation if the vehicle is plied for reward or hire.

5. Question of future prospect was considered in the case of U.P. State Road Transport Corporation and Others Vs. Trilok Chandra and Others, . In paragraph 16 of the Judgment, the Apex Court has considered the question of future uncertainty of deceased, future prospect for many uncertainties, having a bearing on the uncertainties of life, such as, premature death of the deceased or the dependant, remarriage, accelerated payment and increased by wise and prudent investments, etc., would become necessary. It was further held that considering this fact why Courts in India as well as England preferred the Davies'' formula as being simple and more realistic and has held that multiplier system covers all future benefits and future -uncertainties. Therefore, the contention of Counsel for appellants is that future prospect has not been considered by Claims Tribunal is correct. Claims Tribunal has applied the principle of multiplier which embraces all future uncertainties including future increments in the salary and other benefits to the deceased.

6. As regards contention of Counsel for respondent is concerned, the Insurance Company has not proved that the vehicle was plied for reward or hire. There was no cross-examination by the Insurance Company on this question nor any evidence was led by the Insurance Company on this point, hence the contention of Insurance Company is rejected.

7. As regards Quantum of Compensation is concerned, the Claims Tribunal has recorded a finding that the salary of deceased was Rs. 1,311/- per month and determined the dependency at Rs. 800/- per month. The approach of Claims Tribunal is not correct. In paragraph 28 of the award, Claims Tribunal while determining the income of deceased Rs. 1,311/- per month has determined the monthly dependency at Rs. 800/- per month. While determining the monthly dependency the Claims Tribunal has not determined dependency properly. If income of deceased was Rs. 1,311/- per month it can safely be presumed that deceased was spending Rs. 900/- per month on the family. Therefore, annual dependency comes to Rs. 10,800/-. Since at the time of death the deceased was 32 years of age by applying multiplier of 17 the compensation comes to Rs. 1,83,600/ -. To this further amount of Rs. 16,400/- is to be added on various heads such as loss of consortium and funeral expenses, etc. In the said facts of the case, the claim of compensation is enhanced to Rs. 2,00,000/- (Rs. two lakhs only) with interest at the rate of 7% per annum from the date of application. The interest shall be on enhanced amount.

8. Appeal succeeds and is allowed without any order as to costs. Court fee as per

schedule.

