(1997) 02 MP CK 0035

In the Madhya Pradesh High Court

Case No : M.A. No. 311 of 1987

Meena and Others APPELLANT

Vs

Madhya Pradesh State Road Trans. Corpn. and Another RESPONDENT

Date of Decision : 08-02-1997

Acts Referred:

Motor Vehicles Act, 1939 — Section 110A, 110D

Citation : (1999) ACJ 510

Hon'ble Judges : Shambhoo Singh, J;S.K. Dubey, J

Bench : Division Bench

Advocate : S.P. Khirwadkar, for the Appellant; A.G. Dhande, for the Respondent

Final Decision : Allowed

Judgement

S.K. Dubey and Shambhoo Singh, JJ.—This is a claimants'' appeal u/s 110-D of the Motor Vehicles Act, 1939 (in short ''the Act'') for enhancement of the compensation awarded in Claim Case No. 20 of 1983 vide award dated 29.4.1987 passed by the Motor Accidents Claims Tribunal, Raisen.

2. The deceased D.D. Khanna was an employee of State Government in revenue department who was posted as Tehsildar and was drawing net pay of Rs. 1,720 p.m. On 10.5.1983 he was travelling in a bus owned by respondent No. 1, driven by respondent No. 2 which dashed against the truck by going on its wrong side resulting in the instantaneous death of D.D. Khanna as well as the driver of the truck. The legal representatives of the deceased D.D. Khanna and also that of the driver filed applications u/s 110-A of the Act claiming compensation. The present appellants are the legal representatives of the deceased D.D. Khanna who claimed compensation of Rs. 3,55,000 for the death of the deceased. The Tribunal on the evidence adduced by the parties recorded a finding that the bus driver was solely responsible for the accident and awarded compensation of Rs. 38,820 to the appellants with interest at the rate of 12 per cent per annum from the date of application till realisation by taking into account the multiplicand of Rs. 750 per month, yearly Rs. 9,000 and applied the multiplier therein of 6 and

thus calculated the total compensation of Rs. 54,000 wherein a deduction of pension of Rs. 460 p.m. was made and also deducted the amount under the head of lump sum payment.

3. Admittedly, M.P.S.R.T.C, respondent No. 1, has not challenged the award either by filing a separate appeal or by cross-objections in this appeal. The driver has also not filed any appeal. In the circumstances, the finding that the driver of the bus was solely responsible for accident as a result of which the M.P.S.R.T.C, respondent No. 1, owner was held vicariously liable remains unassailable.

4. Coming to the quantum of compensation, in our opinion the calculation of compensation by the Tribunal was not logical or sound in view of the law laid down by the Supreme Court in the case of General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others, : wherein it is observed that it is necessary to reiterate that the multiplier method is logically sound and legally well established. There are some cases which have proceeded to determine the compensation on the basis of aggregating the entire future earnings for over the period the life expectancy was lost, deducted a percentage therefrom towards uncertainties of future life and awarded the resulting sum as compensation. Therefore, considering the age of the deceased which was 52 years at the time of accident, who was drawing Rs. 1,720 per month and was to retire at the age of 58 years. The deceased left four dependants. We are of the view that ''/5th of the amount on personal living expenses deserves to be deducted, then the monthly dependency would come to Rs. 1,400 and by applying the multiplier of 6, the compensation would come to Rs. 1,08,000 (sic) and by adding to it the amount of consortium of Rs. 5,000 the total compensation to which the claimants would be entitled would come to Rs. 1,13,000 with interest thereon at the rate of 12 per cent per annum from the date of the application till realisation.

5. At this stage, Mr. A.G. Dhande submits that the application was filed on 22.11.1983 and the award was passed on 29.4.1987 against which the Corporation did not prefer any appeal, this appeal was filed by the claimants-appellants in the year 1987 which came up for hearing today. The respondent Corporation cannot be blamed for delay in disposal of the claim petition. Therefore, the Corporation be not burdened for interest for such a long period of 13 years. In the opinion of this Court the submission is right. We are of the view that for the delay in disposal of the claim or appeal, it would be unjust to burden the Corporation. We direct that on the amount so enhanced the claimants would be entitled for interest for a period of eight years only. Of course, the amount deposited under the award with its interest shall be adjusted in the amount so enhanced.

6. In the result, the appeal is allowed with a direction to the respondent No. 1 to deposit the amount of compensation as by modifying the award within a period of two months, failing which the amount shall carry interest at the rate of 18 per cent per annum. The appellants shall also be entitled to the costs of this appeal.

Counsel''s fee Rs. 500, if certified.

