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**(1986) 01 MP CK 0042**  
**In the Madhya Pradesh High Court**

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|---------------------------------------|------------|
| M.P. State Road Transport Corporation | APPELLANT  |
| Vs                                    |            |
| Savitribai Baman and Others           | RESPONDENT |

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**Date of Decision :** 30-01-1986

**Acts Referred:**

Fatal Accidents Act, 1855 — Section 1A, 2

**Citation :** (1986) 2 ACC 92

**Hon'ble Judges :** K.L. Shrivastava, J;G.G. Sohani, J

**Bench :** Division Bench

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## Judgement

P.V. Reddi, J.—This appeal u/s 110-D of the Motor Vehicles Act, 1939 (for short "the Act") is directed against the award dated 25-8-83 made by the Motor Accidents Claims Tribunal, Dhar (for short "the Tribunal") in Claim Case No. 61 of 1980.

2. It is not in dispute that the deceased Ramlal aged 30 years was a passenger in the accident bus bearing registration No. CPH 8124 belonging to the appellant Corporation when at about 9.00 p.m. on 12-6-80 it met with an accident and fell in a ravine which is about 150 ft. deep it was being driven by Kaluram an employee of the Corporation.

3. The respondent Savitribai aged 25 years the widow of the deceased and his two minor sons Om Prakash and Santosh respectively aged 8 and 5 years, filed on 5-9-80 the said claim case on the averments that the deceased was earning Rs. 11,000/- per year by cultivation, business and by working as motor mechanic. The accident occurred due to the negligence of the bus driver and, therefore, the said driver and vicariously the appellant Corporation were liable to pay Rs. 1,48,200/- as compensation.

4. The respondent Nos. 4 and 5 are the parents of the deceased. They had filed a separate claim petition claiming Rs. 31,500/- as compensation. They were ordered by the Tribunal to join in the aforesaid claim petition No. 61 of 1980 and have been impleaded as opposite parties No 3 and 4.

5. The appellant Corporation centered the claim on the ground that the accident was occasioned due to the sudden mechanical failure of the bus and, therefore, liability for compensation could not be fastened on it.

6. At the conclusion of the trial, the learned Tribunal held that the widow and the children of the deceased were entitled to Rs 43,000/- and the parents were entitled to Rs. 2,000/- from the appellant and its defaulting driver. The learned Tribunal held that Ramlal was capable of earning Rs. 500/- per month. The monthly dependency was assessed at Rs. 300/-. After making deduction of 1/6th on account of lump sum payment it was held that an amount of Rs. 3,000/- per year was payable to all the claimants. In view of the uncertainties of life, the Tribunal adopted 15 as the multiplier. As the parents of the deceased were living separate from him, an award only of Rs. 2,000/- was made in their favour. The remaining amount of Rs. 43,000/- was awarded to the widow and the children. The compensation amount was apportioned as below:

(1) Savitribai Rs. 11,000/- (2) Omprakash Rs. 16,000/- (3) Santosh Kumar Rs. 16,000/- (4) Baboolal and Geetabai Rs. 2,000/- (parents of the deceased)

interest @ Rs. 6% per annum from the date of the claim petition till deposit was also awarded.

7. The appellant Corporation in this appeal contends that the amount of compensation is too excessive and deserves to be reduced.

8. The widow and the children of the deceased on the one hand and the parents of the deceased on the other have filed cross-objections contending that the amounts of compensation awarded to them being too low deserve to be enhanced.

9. On the arguments advanced by the parties, the point for determination is as to whether the amounts awarded are either too excessive or too inadequate so as to require interference in appeal.

10. u/s 110-B of the Act, the Tribunal is required to make an award determining the amount of compensation which appears to it to be just. The provision has a wider ambit than the words under Sections 1A and 2 of the Fatal Accidents Act. In the decision in *United India Fire and General Insurance Co. Ltd. v. Pallam-party* 1982 ACJ 521 it has been pointed out that what Section 110-A of the Act contemplates is compensation for the death or injury and not any substitute for the loss of the income and the deposit of money yielding income equal to the loss to the estate, was held not to constitute the requisite compensation.

11. There can be no exact uniform rule for measuring the value of human life and the measure of damages cannot be arrived at by any precise mathematical calculation. It has rightly been observed that in the assessment of compensation arithmetic is a good servant but a bad master. Fall in the purchasing power of rupee has also to be kept in view in determining the amount of compensation.

12. One of the methods of assessing damages is by finding out the amount of annual dependency i.e. the multiplicand and the number of years purchase i.e. the multiplier and it was adopted in this Court's decision in *State of M.P. v. Devi Rawat* 1981 ACJ 42.

13. In awarding compensation regard must also be had to the decisions in comparable cases so that there is some measures of predictability in the awards, and the administration of justice in this branch of law commands the respect of the community.

14. For measure of damages in a case of fatal accident, the decision in *State of Assam and Ors. v. Nalini Kanta Doli* 1082 ACJ 229 is pertinent. In the M. P. decision in *Ise and Anr. v. Kashibai and Ors.* 1982 ACJ 65 in respect of the death of a milk-vendor aged 33 years, 15 years" multiplier was adopted and from the amount of compensation deduction of 15% was made on account of lump sum payment and uncertainties of life.

15. As to the persons entitled to compensation under Sections 1A and 2 of the Fatal Accidents Act, the decision in *Ramesh Chandra v. M.P.S.R.T.C.* 1983 ACJ 221 is pertinent. Therein, in the case of the victim aged 19 years, a student of Industrial Training School, adopting 15 years" multiplier wider Section 2 of the Fatal Accidents Act, 1885 a sum of Rs. 18,000/- was awarded to the mother alone as damages on account of loss of earning of the lost years in addition to a sum of Rs. 2,000/- as damages for pain and suffering and loss of expectation of life. In order to avoid duplication, damages for loss of dependency u/s 1A of the Act, taking 65 as the average age, assessed at Rs. 12,000/- it was held, could not be allowed to her. In this connection the decision in *Gobald Motor Service Ltd. case* 1958 ACJ 179 is also pertinent.

16. In the instant case, the testimony of the claimant Baboolal is that the deceased Ramlal was his son and was separate in mess and residence but used to pay him Rs. 3,000/- per year out of the income from joint cultivation. He has stated that the claimant Geetabai is his wife. In the circumstances of the case, we are of the view that the learned Tribunal has properly assessed the evidence of the claimant Savitribai CW8 the life-partner of the deceased Ramlal and Gajanand CW 9 the partner in his business and has come to the correct conclusion that monthly dependency of the claimants was Rs. 300/-. Therefore, after usual deductions, the learned Tribunal has rightly come to the conclusion that towards loss of dependency u/s 1A of the Fatal Accidents Act, the claimants are entitled to Rs. 45,000/- as compensation.

17. On a perusal of the award we find that the learned Tribunal has not granted any amount to Savitribai for loss of consortium though claim on this count has been laid. Looking to her age, we held that it would be proper to award about Rs. 8,000/- to her as compensation for loss of consortium. In the decision in *N. Sivammal and Others Vs. Managing Director, Pandian Roadways Corporation and Another*, the High Court had disallowed the amount of compensation awarded

towards pain and suffering and the Supreme Court had allowed it under different head as the victim, for days together, prior to his death had to face the same. In the instant case, there is no evidence as to the duration between the accident and the death of Ramlal. In the aforesaid decision it has also been pointed out that the claimants were also entitled to compensation for loss to the estate. In that case the victim was a process server and the claimants were his widow and children.

18. In the ultimate analysis, on a careful consideration of the facts and circumstances of the case, we are, of the view that the amount of compensation awarded is too inadequate and deserves to be enhanced at Rs. 60,000/- and we accordingly enhance it. The amount of compensation is apportioned as detailed below:?

|            |               |           |               |         |               |
|------------|---------------|-----------|---------------|---------|---------------|
| Savitribai | Rs. 20,000.00 | Omprakash | Rs. 17,000.00 | Santosh | Rs. 18,000.00 |
| Babulal    | Rs. 3,000.00  | Geetabai  | Rs. 2,000.00  | -----   | Rs. 60,000.00 |

19. In the result, the appeal fails and is hereby dismissed with Costs. The total compensation is enhanced to Rs. 60,000/- and the cross-objections are allowed with costs to the extent of the apportionment detailed above. The award shall stand accordingly modified. Counsel's fee Rs. 200/- if certified.