
(2019) 07 MP CK 0127

In the Madhya Pradesh High Court

Case No : Miscellaneous Appeal No. 1799 Of 2018

Murin And Others

APPELLANT

Vs

Akshay And Others

RESPONDENT

Date of Decision : 24-07-2019

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2019) 07 MP CK 0127

Hon'ble Judges : Prakash Shrivastava, J

Bench : Single Bench

Advocate : Hemendra Jain, Anil Kumar Goyal

Final Decision : Partly Allowed

Judgement

Heard finally with consent.

This appeal under Section 173 of the Motor Vehicles Act is at the instance of the claimants challenging the award dated 06/10/2017 passed in Claims Case No.128/2016 by the MACT Badwani seeking enhancement of the compensation amount awarded by the tribunal.

The appellants/claimants had filed the claim petition before the tribunal with the plea that on 02/09/2016 Noor Mohammad was going on his motorcycle along with pillion rider Rajaram when the accident was caused on account of rash and negligent driving of the motorcycle No.MP-46-MJ 7725 driven in rash and negligent manner by the respondent No.1 and in the said accident Noor Mohammad had received grievous injuries and had died on the spot. Subsequently Rajaram had also died. Hence the compensation was claimed on account of the death of Noor Mohammad.

The respondents No.1 and 2 by filing the reply before the tribunal had denied the accident and had also denied the claim.

The respondent No.3/insurance company had also filed the reply and had taken

the plea of violation of the policy condition and had claimed the exoneration.

The tribunal by permitting the parties to lead evidence and after examining the same had found that the accident was caused on account of rash and negligent driving of the motorcycle No.MP-46-MJ 7725 by the respondent No.1 in which Noor Mohammad had received injuries and had died. The tribunal further found that there was no contributory negligent on the part of Noor Mohammad and he was having valid and effective driving license. The tribunal also recorded a finding that there was no violation of policy condition and the tribunal accordingly awarded the compensation of Rs.5,06,000/- and granted the interest @ 7% from the date of filing of the application.

Learned counsel for the appellants submits that the tribunal has committed an error in not awarding the adequate compensation amount and the amount awarded by the tribunal under the different heads is on the lower side.

As against this, learned counsel for the insurance company has supported the impugned award.

Having heard the learned counsel for the parties and on perusal of the record, it is noticed that the tribunal has not committed any error in assessing the age of the deceased as 50 years and applying the multiplier of 13. The tribunal has also rightly assessed the income of the deceased as Rs.54,000/- per annum but the tribunal has committed an error in deducting 1/2 towards the self expenses. Having regard to the fact that the appellant No.1 is wife and the appellant No.2 is also the son of the deceased, the tribunal ought to have deducted 1/3 towards the self expenses and added 2/3 towards the loss of dependency. That apart, the tribunal has not awarded any amount under the head of future prospects.

In terms of the judgement of the Supreme Court in the matter of National Insurance Co. Ltd. Vs. Pranay Sethi and others reported in 2017 ACJ 2700, the appellants are entitled to further addition of 10% towards the future prospects. Hence, the loss of dependency comes to $54000 \times \frac{2}{3} \times 13 + 46,800(10\%) = 5,14,800/-$. In addition to above, in terms of the judgement in the case of Pranay Sethi (supra), the appellants are entitled to a further sum of Rs.70,000/- under the other heads. Thus, the appellants are entitled to total compensation of Rs.5,84,800/- whereas the tribunal has awarded only a sum of Rs.5,06,000/-. Hence, over and above the amount which has been awarded by the tribunal, the appellants are entitled to enhancement of Rs.78,800/-.

Accordingly, the appeal is partly allowed. The compensation as awarded by the tribunal deserves to be and accordingly enhanced by a sum of Rs.78,800/-. The enhanced amount will bear interest at the same rate as awarded by the tribunal and will be governed by the same conditions as contained in the award of the tribunal.

No costs.

C.c. as per rules.