
(2014) 04 MP CK 0073
In the Madhya Pradesh High Court
Case No : Misc. Appeal No. 2018/2012

National Insurance Co. Ltd.	Vs	APPELLANT
Siddhu and Others		RESPONDENT

Date of Decision : 17-04-2014

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2014) 04 MP CK 0073

Hon'ble Judges : Prakash Shrivastava, J

Bench : Single Bench

Advocate : S.V. Dandavate, Learned Counsel, Advocates for the Appellant;
Kaushal Singh, Learned Counsel, Advocates for the Respondent

Judgement

Prakash Shrivastava, J.—This appeal u/S.173 of the Motor Vehicle Act is at the instance of the Insurance Company challenging the award dated 31/7/2012 passed by the MACT, Dhar in Claim Case No. 39/2011 awarding the compensation of Rs.4,97,003/- along with the interest.

2. The respondents No. 1 to 3 (claimants) had filed the claim petition before the tribunal stating that Kailash had died in an accident caused by the Vehicle No. MP09-FA-1356 driven in rash and negligent manner. The claimants are the parents and the minor sister of the deceased. The tribunal in the award dated 31/7/2012 has found that the accident was caused by the Toofan Vehicle No.MP09-FA-1356 driven in rash and negligent manner in which Kailash had died and the Insurance Company had failed to prove that the driver of the vehicle was not having valid and effective license or the vehicle was not having effective permit on the date of the accident. The Insurance Company also could not prove that the vehicle was driven in violation of the policy conditions. The claims tribunal also found that the deceased at the time of accident was aged between 15-20 years. The Claims tribunal found that at the time of the accident the monthly income of the deceased was Rs.3500/-. Since the deceased was bachelor, therefore, the tribunal deducted 1/2 towards the self expenses and

applied the multiplier of 18 and calculated the loss of dependency of Rs.3,78,000/-. The tribunal awarded further sum of Rs.27,153/- towards the medical expenses, Rs.4000/- for transportation charges, Rs.10,000/- for the attendant and the diet charges, Rs.10,000/- for loss of estate and Rs.5000/- for funeral expenses. Including other heads, tribunal passed an award of Rs.4,97,003/-.

3. Learned counsel for appellant submits that the tribunal has committed an error in recording the finding that the Toofan vehicle No.MP09-FA-1356 was involved in the accident whereas as per the FIR (Ex.P.2) maruti van had caused the accident. He has further submitted that the tribunal has committed an error in applying the multiplier of 18 whereas considering the age of the parents, the lower multiplier should have been applied.

4. Counsel for respondents has submitted that the finding recorded by the tribunal in respect of the involvement of vehicle in question in the accident is based upon the appreciation of the evidence. He has further submitted that in view of the judgment of the Supreme Court in the matter of Reshma Kumari and Others Vs. Madan Mohan and Another, the multiplier of 18 considering the age of the deceased has rightly been applied.

5. I have heard the learned counsel for the parties and perused the record.

6. So far as the appellant's objection in respect of the involvement of Maruti Van in the accident is concerned, it is found that the Motor Accident Claims Tribunal has elaborately dealt with this objection and considering the oral as well as the documentary evidence on record, the tribunal has found that the Toofan vehicle bearing No. MP09-FA-1356 was involved in the accident. While recording the said finding, the tribunal has duly considered the statement of AW-1 Sukli Bai, AW-2 Mohan, NAW 1 and 3 as also the charge sheet (Ex.P/1), FIR (Ex.P/2), the spot map of the accident (Ex.P/4). The eyewitness of the accident AW-2 Mohan has stated before the tribunal that the accident was caused by Toofan vehicle. It has further been noticed by the tribunal that the FIR was not recorded at the instance of an eyewitness. In these circumstances, it is found that no error has been committed by the tribunal in reaching to the conclusion that the vehicle No. MP09-FA-1356 was involved in the accident.

7. The appellant has also raised an issue that the tribunal has committed an error in applying the multiplier of 18 on the basis of age of the deceased, whereas the multiplier should have been applied on the basis of age of the dependents, but such an objection also can not be accepted since the calculation of multiplier of 18 by the tribunal is correct in view of the judgment of the Supreme Court in the matter of Reshma Kumari and Others Vs. Madan Mohan and Another, as also the order of this Court dated 7.1.2014 passed in M.A. No. 852/2013 in the matter of ICICI Lombard General Insurance Co. Vs. Smt. Sunita and others.

8. Thus, no ground for interference in the appeal is made out. The appeal is

accordingly dismissed.