
(1999) 05 MP CK 0008
In the Madhya Pradesh High Court
Case No : M.A. No. 993 of 1995

New India Assurance Co. Ltd.

APPELLANT

Vs

Kamla Bai and Others

RESPONDENT

Date of Decision : 11-05-1999

Acts Referred:

Citation : (2001) ACJ 1045

Hon'ble Judges : Rajeev Gupta, J;P.N.S. Chauhan, J

Bench : Division Bench

Advocate : S.K. Rao, for the Appellant;

Judgement

D.P.S. Chauhan, J.—This miscellaneous appeal is directed against the award dated 12.10.1995 passed in Motor Vehicle Case No. 13 of 1991 by 2nd Additional Motor Accidents Claims Tribunal, Durg, whereby the claimants' claim was allowed.

2. The cause-list revised. Counsel for the respondents are not present though their names are shown in the cause-list. Heard learned counsel for the appellant.

3. The only submission advanced by the learned counsel for the appellant Mr. S.K. Rao is that the Tribunal has committed grave error in not deducting the one-third amount of the total income which the deceased would have spent on himself and in that connection he invited attention of the court to para 15 of the award. From para 15 it is apparent that no allowance has been made equivalent to one-third of the total income of the deceased which he would have spent on himself. The finding regarding income of the deceased is that he was earning at least Rs. 2,000 per month, i.e., Rs. 24,000 per year. Out of this amount a sum of Rs. 8,000 should have been deducted as it is the amount which deceased would have spent on himself and, therefore, claimants' dependency would have been Rs. 16,000 per annum, and this dependency should have been multiplied by 15 as has been done by the Tribunal in the award and, accordingly, the total liability of the insurance company would have been Rs. 2,40,000 and the claimant Kamla

Bai was also awarded a sum of Rs. 15,000 by way of compensation for deprivation of husband's company for leading a happy married life and a sum of Rs. 10,000 is awarded by the Tribunal for mental agony.

4. In view of above, the total amount comes to Rs. 2,65,000 for which the claimants are entitled and are to be paid along with interest at the rate of 12 per cent per annum from the date of the lodging of the claim case.

5. Accordingly, the appeal is allowed in part maintaining the award to the extent of awarding Rs. 15,000 under the head of compensation for loss of company of the husband and father and Rs. 10,000 for deprivation of love and affection. The award is modified only to the extent that one-third income of the deceased on the dependency is to be deducted and after deducting the amount comes to Rs. 2,40,000 together with interest at the rate of 12 per cent per annum from the date of the lodgement of the claim petition with the Claims Tribunal. It is made clear that the amount which has already been deposited with the Claims Tribunal under the order of this court may be given set off and the interest liability shall not remain on the amount deposited from the date of deposit.