
(2001) 01 MP CK 0078
In the Madhya Pradesh High Court
Case No : M.A. No. 452 of 1994 (J)

New India Assurance Co. Ltd., Jabalpur	APPELLANT
Vs	
Smt. Santu Devi and Others	RESPONDENT

Date of Decision : 05-01-2001

Acts Referred:

Motor Vehicles Act, 1988 — Section 149(2), 170

Citation : (2002) 1 MPJR 55

Hon'ble Judges : Bhawani Singh, C.J.;Rajeev Gupta, J

Bench : Division Bench

Advocate : S.K. Rao, for the Appellant; None, for the Respondent

Final Decision : Dismissed

Judgement

Bhawani Singh, C.J.

This appeal is directed against the award of Motor Accidents Claims Tribunal Rewa, in Claim Case No. 12/93, dated February 25, 1994.

The accident took place on 20.1.1988, at about 12.15 p.m. when truck No. DDG 02841, driven by Ramchandra (driver), owned by Kashinath Tandon and insured with the appellant, New India Assurance Co. Ltd., hit Pannalal (deceased) resulting in his death. Allegation is that the vehicle was being driven rashly and negligently, otherwise, the accident could not have taken place. Claim for Rs. 5,19,620.00 has been raised.

Pannalal deceased was a diesel mechanic earning Rs. 1020,00 per month. But for the accident, he would have remained in service till attaining the age of 58 years and earned promotions as well. On account of the accident, the family has been made to suffer to a great extent, as it was dependent on the deceased.

In reply, it has been denied that the accident took place due to rash and negligent driving of the truck. Allegation is that the accident happened due to negligence of the deceased who was driving the vehicle in a careless manner and

struck against a stone, lost balance and came under the truck. It is also contended that the claim is exaggerated.

The appellant Insurance Co. has simply stated that the claim is imaginary and exaggerated.

The Claims Tribunal has accepted the allegations put up by the claimants against the respondents and found that the accident had taken place as per the allegations in the claim petition in which Pannalal died and the accident had not taken place due to the negligence of the deceased, but was on account of the negligence of the truck driver. It is also found that the deceased was earning Rs. 935.50 per month, therefore, entitled to compensation of Rs. 3,82,830.00 against the claim of Rs. 5,19,620.00. The claim has been made payable with interest at the rate of 18% per annum. The appellant is not satisfied with this award, therefore, it has been challenged in this appeal.

Shri S.K. Rao, learned counsel for the appellant, has raised two objections against the award. The first is that the vehicle was not insured with the appellant, therefore, it is not liable to pay the compensation. In view of the affidavit filed by Shri Neelkant Banka, Administrative Officer of the appellant that the vehicle was insured with it during the time the accident took place, this submission is rendered infructuous. The second objection is that the Tribunal has applied multiplier of 31, though multiplier of 16 is applicable in this case as per the schedule to the Act. This objection relates to the quantum of compensation which cannot be raised by the Insurance Company in the absence of written permission from the Claims Tribunal u/s 170 of the Motor Vehicles Act, 1988. This being the position, the objections raised by the appellant are confined to those mentioned in section 149(2) of the Act. The objection being raised is not covered by section 149(2) of the Act, therefore, it cannot be allowed to be raised.

No other point was urged for consideration in this appeal.

Consequently, there is no merit in this appeal and the same is dismissed. The amount of compensation, if not paid, be paid within two months.