
(2006) 09 MP CK 0067
In the Madhya Pradesh High Court

Raj Kumari Singh and Others

APPELLANT

Vs

Rambeer and Others

RESPONDENT

Date of Decision : 15-09-2006

Acts Referred:

Citation : (2008) ACJ 36

Hon'ble Judges : Sushma Shrivastava, J;A.K. Mishra, J

Bench : Division Bench

Judgement

Arun Mishra and Sushma Shrivastava, JJ.—This appeal has been preferred by the claimants seeking enhancement of compensation aggrieved by an award dated 11.12.2003 passed by Ninth Additional Motor Accidents Claims Tribunal, Jabalpur in M.V.C. No. 45 of 2002.

2. In an accident dated 2.6.2001 when Rajendra Singh was going in his Maruti van No. MP 21-2488 near village Gint, he was dashed by a truck No. HR 38-E 1278. Truck was driven as per the claimants at excessive speed and dashed the car of the deceased, consequently Rajendra Singh died and another person sustained injuries. Truck was driven by Rambeer alias Arvind, owned by Jaswant Singh and insured with New India Assurance Co. Ltd. Rajendra Singh was driving a Maruti van. He was travelling from Jhansi to Jabalpur along with G.P. Vishwakarma and Ram Bai on Sagar-Jhansi Road, NH 26, accident took place near village Gint in spite of the fact that deceased stopped Maruti van on one side, still driver of the truck dashed the stationary Maruti van owing to which injuries were sustained. Rajendra Singh succumbed to the injuries, F.I.R. was lodged at P.S. Bandri at Crime No. 109 of 2001, charge-sheet was filed against driver of the truck before JMFC, Khurai.

Deceased Rajendra Singh used to work as skilled meltor in Grey Iron Foundry, Jabalpur. It was claimed that he was earning a sum of Rs. 13,000 per month. He was the only person providing succour to the family. The claim petition has been filed by the widow, daughter and two sons of the deceased and a total compensation of Rs. 25,20,000 was claimed. The date of birth of the deceased

was 1.1.1956, as on the date of accident his age was above 45 years.

3. The owner and driver in their reply contended that the driver, owner and insurer of Maruti van were necessary parties, driver of Maruti van was not having valid and effective driving licence to drive the vehicle. Driver of Maruti van was negligent. Maruti van had dashed the stationary truck. Driver of the truck was checking the air pressure in the wheels. Persons travelling in Maruti van were badly drunk, it was night as such probably driver was under the influence of sleep, hence due to negligence of driver of Maruti van, accident has taken place. The insurer contended that excessive amount has been claimed and other similar pleas were taken, apart from that it was contended that driver of the truck was not having valid and effective driving licence.

4. The Claims Tribunal has determined the income of the deceased at Rs. 5,804, which was the net amount received by the deceased. Multiplier of 13 has been applied, 1/3rd deduction has been made, thus compensation of Rs. 4,80,000 inclusive of customary heads has been ordered to be paid along with interest at the rate of 9 per cent per annum from the date of filing of the claim petition till realisation. Dissatisfied with the quantum of compensation this appeal has been preferred.

5. The only submission raised in this appeal is about the income of the deceased. The Claims Tribunal has erred in law in deducting the amount of P.F. which was the savings of the deceased which could not have been deducted from the salary. It is clear that his basic pay was Rs. 5,500. He was receiving dearness allowance in the form of ADA rate one Rs. 1,650; DA rate one Rs. 2,365 and DA rate two Rs. 1,183. Thus, we take the aforesaid amount for arriving at the figure of the salary of the deceased. We are excluding the HRA and overtime which was not certain. Thus the computation of the monthly salary for the purpose of determination of compensation comes to Rs. 5,500 + Rs. 1,650 + Rs. 2,365 + Rs. 1,183 = Rs. 10,698, it is rounded off to Rs. 10,700, after making V3rd deduction the monthly loss of dependency comes to Rs. 7,133 and annual loss of dependency comes to Rs. 7,133 x 12 = Rs. 85,596. The age of the deceased was between 45 and 50 years. Thus we apply multiplier of 13. Thus compensation on account of loss of dependency comes to Rs. 85,596 x 13 = Rs. 11,12,748. In addition claimants are entitled for a sum of Rs. 5,000 on account of funeral expenses, Rs. 5,000 for loss to estate, Rs. 5,000 for loss of expectancy of life and widow is entitled for Rs. 5,000 on account of loss of consortium. Thus total compensation comes to Rs. 11,32,748. The compensation enhanced by us to carry interest at the rate of 6 per cent per annum from the date of filing of the claim petition.

6. Resultantly, appeal is partly allowed to the aforesaid extent. Parties to bear their own costs as incurred.