

(1996) 07 MP CK 0027
In the Madhya Pradesh High Court
Case No : M.A. No. 111 of 1993

Ram Singh Banzara and Another

APPELLANT

Vs

Amritlal Devangan and Others

RESPONDENT

Date of Decision : 25-07-1996

Acts Referred:

Motor Vehicles Act, 1988 — Section 166, 168

Citation : (1997) 1 MPLJ 374

Hon'ble Judges : Usha Shukla, J;S.K. Dubey, J

Bench : Division Bench

Advocate : Umesh Trivedi, for the Appellant; G.K. Soni, for respondent Nos. 1 and 3 and S.K. Rao, for the Respondent

Final Decision : Allowed

Judgement

Usha Shukla, J.

Appellants/claimants Ram Singh and Suwali are the parents of Ku. Bhigni Bai @ Bikri Bai who died in an automobile accident in the intervening night of 7th and 8th April, 1990. They have filed this appeal for enhancement of compensation awarded by First Additional Claims Tribunal, Jagdalpur vide award dated 20-10-1992 passed in claim case No. 3/90.

The accident occurred when truck No. M.B.S.-9055 carrying cement bags, owned by respondent No. 3 and driven by respondent No. 1 overturned. Bikri Bai was one of the passengers in this truck. She was crushed under the cement bags and died on the spot. The truck was insured with respondent No. 2 at the time of the accident.

According to the claimants, the deceased was aged about 16 years at the relevant time. She was their only child. She was working as a labourer earning Rs. 19/- per day. Her monthly emoluments were around Rs. 550/- out of which she used to spend Rs. 150/- per month on herself and used to give Rs. 350/- per month to her parents. The accident was as a result of rash and negligent driving

of the truck. The compensation claimed was Rs. 1,62,500/-.

The respondents denied rashness and negligence on the part of the driver. The quantum of compensation was also contended to be excessive.

On consideration of the evidence adduced by parties the Claims Tribunal found it established that Bikri Bai died in the accident which was a result of rash and negligent driving of truck No. M.B.S.-9055. It also found that the deceased was aged about 16 years and was earning Rs. 19/- per day. However, taking the dependency to be Rs. 350/- per month, the compensation awarded was Rs. 16,800/- only, applying a multiplier of 4. To this a sum of Rs. 5,000/- was added for mental pain and suffering and Rs. 3,200/- as funeral expenses, total Rs. 25,000/-.

It has been urged on behalf of the appellants that the compensation awarded is grossly inadequate. The Tribunal erred in taking the multiplier of 4. It overlooked the fact that the minimum amount even under no fault liability was Rs. 25,000/- in death cases, which was later raised to Rs. 50,000/- in November 1994.

The award was supported by the respondents on the ground that the deceased would have married in a couple of years or so, whereupon she would have ceased to be of any financial help to her parents.

Having heard counsel for both sides, we are convinced that the compensation awarded was inadequate. It has to be kept in mind that the deceased was the only issue of the claimants. It is true that the deceased was expected to marry into another family. But that does not mean that she would have left her parents unattended and unprovided for in old age, in their hour of need.

On this point, the observations of the Punjab and Harayana High Court in *Rupinder Singh v. Jaswant Singh*, 1987 ACJ 493 may be quoted with advantage :-

"It is well settled that parents do have a legitimate expectation of financial support from their children particularly in their old age when their children are gainfully employed. Further it is indeed a fallacy to assume that merely because the deceased happens to be a minor girl, her parents would not be entitled to compensation. Courts cannot in this behalf lose sight of the fact that girls in ever increasing numbers are taking up employment and that too in almost all fields. Marriage is, no doubt, the natural aspiration of young girls and it is also true that after marriage they go into their husbands' family, but according to the social norms, that have emerged, it would be wrong to assume that a woman gainfully employed would not extend financial support to her parents, if they be in need. Parents cannot, therefore be denied compensation merely on the ground that the deceased was their daughter and not their son."

We are of the view that taking the dependency of the claimants to be Rs. 350/- per month a multiplier of 14 would be appropriate keeping in mind the age of the deceased, the age of the claimants and their social status. The compensation thus comes to Rs. 58,800. To this may be added Rs. 3,200/- towards funeral

expenses as awarded by the Tribunal. Thus the total compensation would come to Rs. 62,000/- which appellants would be entitled with interest at the rate of 12% p.a. from the date of application till deposit.

Before parting with the case reference may be made to the arguments advanced on behalf of the respondent No. 2 the insurer that it is absolved from liability under the policy on account of breach of condition of policy prohibiting carriage of passenger on the truck. The argument has no substance as it is evident on record and the Tribunal after appreciation of evidence recorded a categorical finding in para 15, that the deceased was working as a labourer on the truck. The finding is neither perverse nor manifestly illegal so as to hold that the deceased was a passenger for hire or reward.

In the result the appeal is allowed with costs. The appellants would be entitled to Rs. 62,000/- with interest at the rate of 12% p.a. from the date of application till deposit. The insurer shall deposit the amount within two months failing which the appellants would be entitled to recover the amount from the respondents jointly or severally. Counsel's fee Rs. 750/-, if pre-certified.