
(2007) 07 MP CK 0103
In the Madhya Pradesh High Court

Ramesh Singh Gangwar and Others

APPELLANT

Vs

Amarjit Singh and Others

RESPONDENT

Date of Decision : 06-07-2007

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 47 Rule 1

Citation : (2009) ACJ 812

Hon'ble Judges : Shahi Kant Kulshreshtha, J

Bench : Single Bench

Judgement

S.K. Kulshrestha, J.—Mr. M.K. Sharma, counsel for the applicant, heard finally on the question of review.

2. This application has been filed to seek review of the order passed in M.A. No. 345 of 2005 Ramesh Singh Gangwar v. Amarjit Singh and M.A. No. 346 of 2005 Ramesh Singh Gangwar v. Amarjit Singh, mainly on the ground that while the trial court had awarded a sum of Rs. 1,52,000 as compensation in Claim Case No. 14 of 2004, on computation of the amount, this Court held that the compensation to which he was entitled was Rs. 1,46,000. Learned Counsel submits that in an appeal for enhancement, reduction of amount awarded by the Tribunal was not permissible and, therefore, there being apparent error on the face of record, it deserves to be corrected.

3. In para 5 of the order passed by this Court in respect of M.A. No. 346 of 2005, it was observed that Tribunal had assessed the monthly income of the deceased in the sum of Rs. 2,000 and deducting therefrom 25 per cent for the personal expenses of the deceased, the annual loss of dependency was assessed in the sum of Rs. 18,000. The Tribunal had used a multiplier of 5 to work out the total loss of dependency and assessed the same in the sum of Rs. 90,000. This court, however, was of the view that in the facts and circumstances of the case a multiplier of 8 should have been applied. In these premises, the total dependency was worked out at Rs. 1,44,000 and a sum of Rs. 2,000 was awarded towards funeral expenses. It was in this context that it was stated that

the appellants would be entitled to a sum of Rs. 1,46,000 with interest at the rate of 6 per cent per annum from the date of the application. The Tribunal in its assessment contained in para 72 of the award has awarded a sum of Rs. 1,52,000 in the said case and, therefore, we are of the view that the learned Counsel is right in contending that the amount could not have been reduced from the amount awarded by the Tribunal.

4. Accordingly, we direct that after the last line of penultimate para (para 5) it be added that since the Tribunal has awarded a sum of Rs. 1,52,000 to the appellants, the appellants would be entitled to the said amount together with the interest awarded thereon.

5. Learned Counsel has also submitted that the monthly income of the deceased has not been properly assessed. Insofar as the assessment of income is concerned, it can hardly be within the scope of Order 47, Rule 1, CPC and, therefore, the matter cannot be taken into consideration.

6. However, we have gone through the order passed by this Court and we are of the considered view that the dependency assessed by the Tribunal is just and proper. Under these circumstances, we are not inclined to accept the prayer for revision of the order in the guise of review.

7. With the above modification in the award, this review is disposed of.