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In the Madhya Pradesh High Court

Case No : M.A. No. 3401 of 2007

Rekha Baghel and Others APPELLANT

Vs

Nishar Ahmad Khan and Others RESPONDENT

Date of Decision : 13-12-2011

Acts Referred:
Motor Vehicles Act, 1988 — Section 166, 173

Citation : (2013) ACJ 847

Hon'ble Judges : J.K. Maheshwari, J

Bench : Single Bench

Advocate : Avtar Singh, for the Appellant; V.K. Trivedi, for the Respondent

Final Decision : Allowed

Judgement

J.K. Maheshwari, J.—Assailing the award dated 17.4.2007, passed by the learned Motor Accidents Claims Tribunal, Seoni, in M.V.C. No. 8 of 2006 on the point of inadequacy of compensation, the appellants have preferred this appeal u/s 173 of the Motor Vehicles Act, 1988. The appellants had filed the claim petition u/s 166 of the Motor Vehicles Act, 1988 seeking compensation to the tune of Rs. 64,54,000 on account of death of deceased Rajjan Singh in an accident that took place on 16.5.2005. It was pleaded by the claimants, i.e., widow, kids, father and mother that the sole bread-earner of the family has died in the accident having his earnings from job of accountant in Forest Department, however, the compensation as prayed in the claim petition may be awarded.

2. The reply to the claim petition was filed and after recording the evidence, the Tribunal has awarded the total sum of Rs. 10,69,500, out of which for loss of dependency Rs. 10,50,000 accepting the earnings of the deceased as Rs. 9,536 per month, applying the multiplier of 15 and after deducting 1/3rd towards the personal expenses. The Tribunal has also awarded some amount under conventional heads, i.e., consortium Rs. 5,000, loss of love and affection Rs. 10,000, for funeral expenses Rs. 2,500, loss to estate Rs. 2,000 by the impugned award.

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3. As the incident occurred due to negligence of driver of the offending vehicle, the issue of liability jointly and severally to pay compensation has been decided recording the findings in favour of the appellants by the Tribunal and none of those findings have been assailed at the instance of the respondents, i.e., owner, driver or insurance company by filing cross-appeal or cross-objection, however it is not necessary to narrate the entire facts in detail to burden the judgment on the said issues. It is only the inadequacy of the compensation which has been assailed, however, the arguments in detail have been considered in succeeding paras.

4. Mr. Avtar Singh, the learned counsel representing the appellants, contends that due to the said accident Rajjan Singh has died, who was the sole bread-earner of the family. The compensation awarded by the Claims Tribunal is inadequate, because the earnings has not been duly assessed and the multiplier has also not been properly applied, while determining the loss of dependency. Under conventional heads, i.e., funeral, consortium, love and affection, loss to estate, the amount as awarded is on lower side and deserves enhancement. In view of the foregoing submissions, the enhancement of compensation so awarded by the Tribunal has been prayed for.

5. On the other hand, Mr. V.K. Trivedi, learned counsel representing the respondent insurance company, contends in support of the findings of the Claims Tribunal and submitted that the compensation as awarded by the impugned award appears to be just and reasonable and interference by this court for enhancement of compensation is not warranted.

6. After having heard learned counsel appearing for the parties and on perusal of the record, it is clear that deceased was in the employment of Forest Department and working as accountant. After deductions his salary comes to Rs. 8,883 per month, which annually comes to Rs. 1,06,596. Looking to the number of dependants if 74th is deducted for personal expenses, then the loss of dependency will come to Rs. 79,947 annually, if it is multiplied by 16 as per the multiplier of the age group of the deceased then the total loss of dependency comes to Rs. 12,79,152. As per the judgment of the Apex Court in the case of Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, if Rs. 1,25,000 for future prospects in lump sum is further added then the total comes to Rs. 14,04,152. If Rs. 25,000 under conventional heads, i.e., funeral, consortium, love and affection, loss to estate is added then the amount comes to Rs. 14,29,152. If the amount so awarded by the Tribunal is deducted, i.e., Rs. 10,69,500 then the net enhanced amount comes to Rs. 3,59,652. By rounding off the same the net enhanced amount comes to Rs. 3,60,000, which shall be payable along with interest from the date of filing of the claim petition. In view of the foregoing discussions, the appeal succeeds and is hereby allowed in part. Appellants are held entitled to receive the enhanced amount of Rs. 3,60,000 in addition to the amount of compensation already awarded by the Tribunal making the total compensation Rs. 14,29,500. The enhanced amount shall carry interest

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at the rate of 6 per cent per annum from the date of filing of claim petition till its realization. The said amount be paid within a period of three months from the date of the award otherwise interest at the rate of 7.5 per cent shall be leviable. In the facts of the case, parties are directed to bear their own costs.

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