
(2010) 11 MP CK 0047
In the Madhya Pradesh High Court
Case No : M.A. No. 1506 of 2009

Shashi Raghuvanshi and others

APPELLANT

Vs

Mehboob Khan and others

RESPONDENT

Date of Decision : 19-11-2010

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2011) ACJ 2291

Hon'ble Judges : Prakash Shrivastava, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Prakash Shrivastava, J.—This appeal u/s 173 of the Motor Vehicles Act, 1988 has been filed by the claimants against the award dated 12.2.2009 passed by the Fourth Additional Member, Motor Accidents Claims Tribunal, Indore (M.P.), in Claim Case No. 55 of 2007.

2. One Amar Singh Raghuvanshi had died in the vehicular accident, which had taken place on 23.7.2006, therefore, the appellants being the dependants of the deceased had filed the claim petition before the Tribunal. The Tribunal assessed the income of the deceased as Rs. 11,753 and after deducting 73rd towards self expenses, the Tribunal calculated the monthly loss of dependency as Rs. 7,835 and annual loss of dependency as Rs. 94,020. The Tribunal found age of the deceased as 48 years and applied the multiplier of 13. Thus Claims Tribunal calculated the total loss of dependency at Rs. 12,22,260. The Tribunal further awarded a sum of Rs. 5,000 to the wife under the head of loss of consortium, Rs. 2,000 towards funeral expenses and Rs. 2,500 towards loss to estate. Thus the Tribunal awarded a sum of Rs. 12,31,760 along with interest at the rate of 6 per cent from the date of application till realization.

3. It is not necessary to narrate the entire facts in detail, such as how the accident occurred, negligence in driving the offending vehicle and the issue of

liability as to who is liable to pay compensation. The Tribunal has already recorded the findings on these issues in favour of the appellants. None of those findings have been assailed at the instance of the respondents, i.e., owner/driver/insurance company by filing cross-appeal or cross-objection. Thus, it is not necessary to burden the judgment by detailing the facts on the said issues.

4. Learned counsel appearing for the appellants submitted that the Tribunal has committed an error in calculating the income of the deceased. He further submitted that the Tribunal has committed an error in not awarding any amount under the head of loss of future prospects of increase in income. Thus the amount awarded by the Tribunal is on the lower side.

5. Learned counsel appearing for the respondent/insurance company submitted that the amount, which has been awarded by the Tribunal, is just and proper and there is no scope for interference.

6. I have heard learned counsel for the parties and perused the record.

7. A perusal of the award indicates that the Tribunal has referred to the documents Exh. P11 and Exh. P13 but has wrongly deducted some of the payments which ought to have been calculated in the income of the deceased. The salary certificate (Exh. P13) indicates that the deceased was having the gross total income of Rs. 17,480, out of which Rs. 13,210 was the basic salary, Rs. 2,544 was D.A., Rs. 375 was CCA, Rs. 991 was HRA, Rs. 615 was PPA and Rs. 105 was the conveyance allowance. Similar is the position indicated in Exh. P11. In terms of judgment of Apex Court in the matter of National Insurance Company Ltd. Vs. Indira Srivastava and Others, , if some facilities are being provided by the employer to the employee whereby the entire family stands to benefit, the same is relevant for purpose of computation of total income. The Supreme Court has held that the amount of General Provident Fund, Special Provident Fund, L.I.C. contribution are amounts paid under specific heads and the contribution is always repayable to the employee at the time of voluntary retirement, death or any other reason, and such contributions made by the salaried person are deferred payments and they are savings. According to the Supreme Court the Tribunal can make only statutory deductions such as income tax and professional tax and no other contribution, which is not repayable by the employer from the salary of the deceased person while determining the monthly income for computing the dependency compensation.

8. In the present case the conveyance allowance which the deceased was receiving is liable to be deducted. Looking to the extent of salary, it is clear that the deceased must have been paying the income tax, though no details have been placed on record, therefore, some amount is required to be deducted under the head of income tax. Keeping in view the amount which has been disclosed in Exh. P11 and Exh. P13 and the judgment of the Apex Court and other statutory liability of the deceased, it is found just and proper to assess the monthly income of the deceased as Rs. 15,000. The Tribunal has rightly applied the multiplier of

13, therefore, after deducting 1/3 rd towards self expenses the loss of dependency comes to Rs. 10,000 per month and annual loss of dependency comes to Rs. 1,20,000 and by applying the multiplier of 13 the loss of dependency comes to Rs. 15,60,000, whereas Tribunal has awarded only a sum of Rs. 12,22,260 under this head. Therefore, the appellants are entitled to enhancement of Rs. 3,37,740 under this head.

9. So far as the loss of future prospects of increase in income of the deceased is concerned, AW 1 Shashi Raghuvanshi, the wife of the deceased, has stated that the deceased was working as cashier in Bank of Baroda and he had the chance of next promotion since he had passed the examination. The statement of AW 4, Mahesh Kumar Bhatia, Senior Branch Manager of Bank of Baroda, also indicates that at the time of accident the deceased was working in Bank of Baroda. Thus the deceased was in a stable job and possibility of his future prospects of promotion cannot be ruled out, looking to his age and nature of work. Therefore, following the judgment of Apex Court in the matter of Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, a lump sum amount of Rs. 2,00,000 is granted under the head of the loss of future prospects. Thus the amount awarded by the Tribunal is enhanced by a sum of Rs. 5,37,740. The enhanced amount will bear interest at the rate of 6 per cent from the date of application till realization.

10. The appeal is allowed in part to the extent indicated above.

No costs.