(2019) 02 MP CK 0043

In the Madhya Pradesh High Court

Case No : Miscellaneous Appeal No. 58, 59 Of 2018

Shiv Devi And Others APPELLANT

Vs

Mahesh Singh And Others RESPONDENT

Date of Decision : 14-02-2019

Acts Referred:

Citation : (2019) 02 MP CK 0043

Hon'ble Judges : Rajeev Kumar Shrivastava, J

Bench : Single Bench

Advocate : Sunil Jain, B.K. Agarwal

Judgement

1. This judgment shall govern the disposal of both Misc. Appeals No.58/2018 and 59/2018, as both the appeals have arisen out of the common Award dated 26.9.2017 passed by Motor Accident Claims Tribunal Ambah, District Morena in Claim Case No. 1/2015 and and 7/2015, respectively.

2. It is not necessary to narrate the entire facts in detail as to the manner the accident has occurred, to burden the judgment on the said issues. It is only the liability on the part of the insurance company to pay the compensation and inadequacy of the compensation is being considered and decided in succeeding paragraphs.

As to liability of the Insurance Company -

3. In this case, it was argued on behalf of the insurance company that the insurance company is not liable to pay compensation as the offending vehicle (Bus bearing registration No. MP06-B-2267) was not insured at the time of accident. The policy produced in the case was forged one and in this regard a complaint had also been filed before the concerned police authorities.

4. The Claims Tribunal has discussed this issue in detail and has arrived at the finding that there is no liability of the insurance company to pay the compensation, as the offending vehicle was not insured with the insurance

company at the time of accident. The finding given by the Tribunal is based on proper analysis and being not perverse does not call for any interference.

As to quantum of the compensation-

5. It is submitted by learned counsel for the appellants-claimants that deceased Ramveer was earning by doing the work of meson and deceased Kumher Singh was doing the work of contract of preparing sweets in the marriage and other functions and was also running sweet shop but in both the cases no document with regard to income of the deceased Ramveer and Kumher Singh was produced by the respective claimants, therefore, the Tribunal has rightly treated both the deceased as 'unskilled labour' and in the light of decisions in Govind Yadav vs. New India Assurance Co.Ltd. [(2011) 10 SCC 683] and Ramji vs. Omkarlal [2004 ACJ 238 (MP)(DB)], has assessed their income Rs.5148/- (for 26 days). In this view of the matter, it can be safely held that the deceased Ramveer and Kumher Singh were earning monthly income of Rs.5148/- each .

6. Thus, the compensation is awarded in both the appeals as under:-

Misc. Appeal No. 58/2018 (Smt. Shivdevi and others vs. Mahesh Singh and others) :-

Heads

Compensation Awarded

Income

Rs.5148/- per month

Future Prospects

Rs.1287/- per month (i.e., 25% of the income)

Total loss of income

6435/- (5148 + 1287)

Deduction towards personal expenditure

Rs.1609/- per month (i.e., 1/4th of the income (6435)

Total loss of income after deducting personal expenses

Rs. 4826/- per month (6435- 1609)

Multiplier

14

Loss of future income

Rs. 8,10,768/- (Rs.4826 x 12 x14)

Loss of Consortium

Rs. 40,000/-

Loss of Estate, love and affection and pain & suffering, etc.

Rs. 15,000/-

Funeral Expenses

Rs. 15,000/-

Total Compensation Payable

Rs. 8,80,768/-

7. Though according to the aforesaid calculation, the appellants are entitled to the compensation to the tune of Rs.8,80,768/-, but since the opposite party has not challenged the quantum of compensation granted to the appellants by filing cross-objection or cross-appeal, the appellants are held entitled to get compensation of Rs.9,28,648/- as awarded by the Claims Tribunal, payable by the respondents No.1 and 2, along with interest @ 7% per annum as per the impugned award.

Misc. Appeal No. 59/2018 (Smt. Guddi Devi and another vs. Mahesh Singh and others) :-

Heads

Compensation Awarded

Income

Rs.5939/- per month

Future Prospects

Rs.1485/- per month (i.e., 25% of the income)

Total loss of income

7424/- (5939 + 1485)

Deduction towards personal expenditure

Rs.2475/- per month (i.e., 1/3rd of the income (7424)

Total loss of income after deducting personal expenses

Rs. 4949/- per month (7424- 2475)

Multiplier

14

Loss of future income

Rs. 8,31,432/- (Rs.4949 x 12 x14)

Loss of Consortium

Rs. 40,000/-

Loss of Estate, love and affection and pain & suffering, etc.

Rs. 15,000/-

Funeral Expenses

Rs. 15,000/-

Total Compensation Payable

Rs. 9,01,432/-

8. The Claims Tribunal has awarded compensation of Rs.7,01,576/-. Thus, the appellants are held entitled to receive enhanced amount of Rs.1,99,856/- in addition to the amount of compensation already awarded by the Claims Tribunal, making the total compensation of Rs.9,01,432/-. The enhanced amount shall carry interest @ 7% per annum from the date of filing of claim petition till the realisation. The said amount be paid within a period of sixty days from the date of the judgment passed by this Court.

9. Misc. Appeal No. 58/2018 is disposed of and Misc. Appeal No.59/2018 is partly allowed to the extent indicated above. In the facts of the case, the parties are directed to bear their own costs.

