
(2000) 06 MP CK 0035
In the Madhya Pradesh High Court

Smt. Ashabai and Others

APPELLANT

Vs

Motilal and Another

RESPONDENT

Date of Decision : 27-06-2000

Acts Referred:

Citation : (2000) 2 ACC 578

Hon'ble Judges : Shambhoo Singh, J; R.D. Vyas, J

Bench : Division Bench

Judgement

Shambhoo Singh, J.—This appeal is directed by the claimants against the award dated 25.9.1995 passed by IInd Addl. M.A.C.T. Neemuch, in Claim Case No. 20/91 whereby compensation of Rs. 1,60,000/- with interest at the rate of 12% per annum was awarded.

2. The case of the appellants-claimants was that on 19.6.1991 the deceased Ganpat was working on truck No. M.B.U. 4544 as cleaner. This truck was driven by respondent No. 1, the owner in rash and negligent manner, as a result of which it turned turtle. The deceased sustained injuries and died. The claimants filed claim case seeking compensation of Rs. 6,45,000/-. The respondents resisted the claim. The learned Tribunal after recording evidence held that the accident occurred due to rash and negligent driving of truck by respondent No. 1 and awarded compensation as stated above. However, the Tribunal exonerated respondent No. 2 Insurance Company on the ground that respondent No. 1 was not having valid and effective driving licence.

3. At the time of arguments it was conceded that the appellants are entitled to compensation for loss of consortium and love and affection which the Tribunal did not award. In view of this, we hold that appellant No. 1, the wife of the deceased is entitled to Rs. 5,000/- for loss of consortium and appellant No. 2, the mother is entitled to the same amount for loss of love and affection and thus, the award amount deserves to be enhanced by Rs. 10,000/-.

4. The argument of Mr. Kemkar for the appellant that the Tribunal committed

error in exonerating the Insurance Company, is not acceptable. Respondent/non-applicant owner and driver Motilal (D.W. 4) deposed that he was issued Ex. D7 licence by R.T.O. Himachal Pradesh but Vipin Singh (D.W. 6) contradicted his statement and stated that licence Ex. D7 was not issued from the office of R.T.O. Mandi, Himachal Pradesh and we find no reason to disbelieve his evidence. The respondent/non-applicant Motilal produced driving licence Ex. D5 which was issued by R.T.O. Mandsaur. This licence was issued for driving light motor vehicle. Ex. D4 is certificate issued in this behalf by R.T.O. It is true that licence Ex. D5 was issued by R.T.O. Mandsaur to respondent No. 1 but it is for driving light motor vehicle. In view of Section 3 no person can drive motor vehicle in any public place unless he holds an effective driving licence issued to him, authorising him to drive the vehicle, this section further provides that no person shall drive a transport vehicle unless his driving licence is specifically entitles him so to do. As stated above, licence Ex. D5 does not authorise respondent No. 1 to drive heavy motor vehicle and he has also not been authorised specifically to drive transport vehicle. Admittedly respondent Motilal was driving transport vehicle, the truck. Under such circumstances, the learned Tribunal rightly held that respondent No. 4 had no valid and effective licence and thus, he violated the terms and conditions of the insurance policy and, therefore, the Tribunal rightly exonerated the Insurance Co.

5. In the result, the appeal is partly allowed. The impugned award stands modified to the extent as stated above and it is directed that respondent No. 1, the owner shall pay Rs. 10,000/- in addition to the amount already awarded with interest at the rate of 12% per annum from the date of filing of application till realisation. No order as to costs.