
(2000) 04 MP CK 0006

In the Madhya Pradesh High Court

Case No : Miscellaneous Appeal No. 116/99

Smt. Prema

APPELLANT

Vs

M.P.S.R.T.C. thro' The General Manager and Another

RESPONDENT

Date of Decision : 10-04-2000

Acts Referred:

Citation : (2001) 1 JLJ 28 : (2001) 5 MPHT 273

Hon'ble Judges : Bhawani Singh, C.J;A.M. Sapre, J

Bench : Division Bench

Advocate : S.N. Saxena, for the Appellant; H.M. Zwlawat, for the Respondent

Final Decision : Allowed

Judgement

1. This appeal is directed against the award of 5th Member, Motor Accidents Claims Tribunal, Indore (MACT for short) dated October, 31, 1998.

2. Deceased Samir Bist (20 met with an accident on 10-9-91 at 8.30 p.m. on A.B. Road, Indore near bungalow of Dr. Verma when his scooter M.P.-09-B-6789 was hit by bus No. CPW-6718 owned by M.P. State Road Transport Corporation (MPSRTC) driven by Ranjitsingh while the bus was coming from going to H.I.G. Colony. The matter was reported at the Police Station Tukoganj and first information report 652/91 was registered. Deceased was subjected to post-mortem examination report is available on file. Allegation is that bus was being driven rashly and negligently as a result of which the scooter was hit by it. Deceased fell of the scooter and his head was crushed by the bus; its driver made good his escape. Deceased was taken to the hospital where he died. It is stated that deceased was 20 year old, healthy and handsome young man. At the time of accident he was studying in B.Sc. second year in Holkar Science College, Indore. He was doing computer course and was senior under officer of National Cadet Corps (NCC). He had secured other merit certificates. This apart he possessed pilot course licence and had bright future. As result of this accident his family members not only suffered financially but also mentally. Accordingly claim

for Rs. 44,00,000/- has been preferred.

3. Respondents have filed statements in defence although common thread passes through it. In substance, the defence taken is that bus was not involved in this accident. The deceased struck against Kinetic Hero Honda and he died. After falling from scooter. He hit the rear portion of the bus but did not come underneath the tire. Due to the accident crowd collected and looking to the possible violence the driver left the bus place. Driver is not responsible for the accident therefore, not liable for the compensation. MACT framed as many as 11 issues in this case. Finding recorded is that accident took place as stated by the claimants. It was due to the rash and negligent driving of the bus that the deceased received the injuries as a result of which he died. The deceased was 20 year old at the time of accident and was a brilliant student and had received pilot licence. With respect to receiving all financial assistance in case he had lived, finding recorded is that duration for the same could be 12 years and while awarding the compensation, the tribunal has awarded compensation of Rs. 1,55,000/- on various counts carrying interest at the rate of 12% from the date of application till the date of realisation. Cost of Rs. 500/- has been also awarded.

4. Claimants have filed this appeal challenging the award on the grounds stated in the memorandum of appeal. We have perused the same and other documents on file apart from hearing the learned counsel from both the sides.

5. Shri S.N. Saxena, learned counsel for claimants vehemently submits that MACT has not awarded just compensation in this case. Learned counsel contends that background of deceased is completely demonstrated in this case and looking to that the compensation awarded is absolutely meagre and deserves to be enhanced. Learned counsel Ms. H.M. Zelawat, submits on the other hand that the award is reasonable and deserves to be upheld. Learned counsel also submits that looking to the fact that deceased was not earning anything and his mother was well placed in service. The compensation is reasonable and no case for enhancing this is made out.

6. We have given our consideration to the facts, evidence and submissions made by learned counsel for parties. We take note of certain facts which are absolutely clear in this case. Evidence clearly points out that it was driver of bus who was responsible for this accident. MACT has found on evidence that he was driving the vehicle rashly and negligently and committed the accident. It was the bus which hit the scooter on which deceased was moving. As a result of this accident the deceased fell and died later on in the hospital. We confirm this finding since there is ample evidence on record to support it.

7. Next question is whether the determination of compensation in this case is just as envisaged under provisions of Motor Vehicles Act, 1988. The Court has to settle just compensation. What is just compensation has been matter of decisions by various Courts. It is the duty of the Court to award just compensation in motor accidents cases to be determined on the facts, evidence

and experience. The evidence in this case is that the deceased was 20 year old at the time of accident. He was studying in B.Sc. Part II in Holkar Science College, Indore. He was senior under officer in N.C.C., a highest post in N.C.C. at Battalion level with great chance of getting into Army. This apart, he possessed pilot's licence with bright prospects of becoming commercial pilot where the salary is very high. He possessed many other certificates. Secondly, there is no doubt about claimants entering into the good service. His family background is also very good. His mother is a teacher in science in St. Rapheals School, Indore while father (dead) was a retired lecturer from Motilal Nehru College, Allahabad. His younger brother (claimant No. 2) has joined in Army. His maternal uncle was in Air Force. Maternal grand father retired as a Lt. Col. With this background, it would be unreasonable to fix the yearly income of the deceased at Rs. 22,000/- settled by M.A.C.T in this case. Reasonably speaking, this amount should be Rs. 36,000/- p.a. Looking to the age of the deceased, and the claimants, the appropriate multiplier in this case should be 15. This way, compensation awardable in this case is $(36 \times 15 = 540) = \text{Rs. } 5,40,000/-$. To this would be added Rs. 2000/- towards funeral expenses taking to total amount of compensation to Rs. 5,42,000/- (five lakhs forty two thousand).

8. Accordingly, this appeal is allowed. Respondent Nos. 1 and 2 are directed to pay compensation of Rs. 5,42,000/- (five lakhs forty two thousand) to the claimants with interest at the rate of 12% from the date of application till its realisation jointly and severally. Costs of parties.