

(2004) 07 CHH CK 0006
In the Chhattisgarh High Court
Case No : Misc. Appeal No. 7/98

Smt. Savita Devi and Others

APPELLANT

Vs

Lakhbeer Yadav and Others

RESPONDENT

Date of Decision : 13-07-2004

Acts Referred:

Motor Vehicles Act, 1988 — Section 128, 168, 171, 173

Citation : (2004) 4 MPHT 63

Hon'ble Judges : A.S.V. Moorthy, C.J.;Fakhruddin, J

Bench : Full Bench

Advocate : Shailesh Ahuja, for the Appellant; P.R. Patankar, for P. Diwakar, for the Respondent No. 3, for the Respondent

Judgement

A.S.V. Moorthy, C.J.—The claimants in Claim Case No. 38/1997 on the file of 1st Additional Motor Accident Claims Tribunal, Raipur have preferred this appeal claiming the enhanced compensation.

2. On 6-4-1995 one Chandrabhan, aged about 45 years was proceeding alongwith one Saddam from Kachheri Chowk to Panchpedi Naka by a Motor Cycle as a pillion rider. At that time a truck bearing Regn. No. GJ 10/T-8888 which was driven by respondent No. 1 rashly and negligently came from the opposite direction and dashed against the two-wheeler. In the result, Chandrabhan died on the spot. The widow and two daughters of the deceased filed Claim Case No. 38/1997 before the Ist Additional Motor Accident Claims Tribunal claiming compensation to the extent of Rs. 7,50,000/-. However, the Tribunal awarded only a sum of Rs. 1,24,200/-. Being dissatisfied with the said award, the claimants have filed the appeal.

3. The fact that the accident took place because of rash and negligent driving by the truck driver is not in dispute at this stage. The only question is what is the just and proper compensation to be fixed.

4. As far as the age of the parties are concerned, practically there is no dispute.

The age of the deceased at the relevant time was 45 years and the age of claimants being widow and two daughters is 40, 20 and 18 years respectively.

5. As far as the earnings of the deceased at the period of accident, it is claimed by the claimants that the deceased was working as a Conductor in a private bus owned by respondent No. 2 Narottamdas Laxmidas and he was getting a monthly income of Rs. 1500/- per month, i.e., Rs. 18,000/- per year. When this employer was in the witness box, except a general suggestion disputing the same in the cross-examination, nothing has been elicited.

6. Having perused the testimony of the witness namely the employer, we do not find any reason whatsoever to reject the same. Hence we proceed on that basis and hold that the income of the deceased was Rs. 18,000/-per year.

7. The next question is as to what is the amount he would have contributed to the claimants prior to the incident. All the claimants are major and in fact both the children are daughters of marriageable age at the relevant time. We are inclined to proceed on the basis (unit method) that he would have contributed Rs. 13,500/- per year and applying the proper multiplier (i.e.) 15, we arrive at a figure of Rs. 2,00,000/-.

8. With this we are inclined to add another sum of Rs. 15000/-towards loss of love and affection, loss of consortium, funeral expenses etc. This takes us to find a figure of Rs. 2,15,000/- which we consider as just and proper compensation. The Tribunal has awarded only Rs. 1,24,200/-. Hence we have to find that the appellants are to be entitled for a further sum of Rs. 90,800/- as an additional compensation which will carry interest @ 9% per annum from the date of presentation of the claim petition. The appeal is allowed in part.

C.C. as per rules.