
(2000) 08 MP CK 0068

In the Madhya Pradesh High Court

Case No : Miscellaneous Appeal No's. 531 and 830 of 1998

Smt. Savitri Devi and others

APPELLANT

Vs

Naresh Kumar Harikrishna Madhwani and others

RESPONDENT

Date of Decision : 17-08-2000

Acts Referred:

Motor Vehicles Act, 1988 — Section 168, 171, 173, 2(21)

Citation : (2002) ACJ 1299 : (2001) 1 MPHT 139

Hon'ble Judges : Mr. Bhawani Singh, C.J.; Mr. A.K. Mishra, J

Bench : Division Bench

Advocate : Shri Sanjay K. Agarwal, for the Appellant; Shri N.S. Ruprah, for the Respondent

Final Decision : Dismissed

Judgement

Bhawani Singh, C.J.—This judgment will dispose of M.A. No. 531 of 1998 (Smt. Savitri Devi and another Vs. Naresh Kumar Harikrishna Madhwani and others) and M.A. No. 830 of 1998 (Oriental Insurance Company Limited Vs. Smt. Savitri Devi and others) and the cross-objections filed by the Insurance Company in M.A. No. 531 of 1998.

2. These appeals are directed against the award dated February 20, 1998 of the Motor Accident Claims Tribunal, Bilaspur in Claim Case No. 1 of 1995.

3. The claimants are legal representatives of Radheshyam Sahu (deceased) who was travelling in Tempo No. MIL 6144 to village Kherkhena driven by Santram Sahu. The tempo was hit by Matador No. MOT 9039 which came from opposite direction. Deceased died due to the injuries sustained by him in the accident. The Matador vehicle was driven by Mohd. Yunus, owned by Naresh Kumar Harikrishna Madhwani and Smt. Lajwanti Devi and insured with Oriental Insurance Company Limited. It was commercial vehicle. Insurance Company has taken the defence that Mohd. Yunus did not possess valid and effective driving licence to drive Matador.

4. The Tribunal found that Radheshyam died in the accident on account of rash and negligent driving of the Matador by Mohd. Yunus. His income was Rs. 800.00 per month and the claimants are entitled to get compensation. It also found that the driver possessed driving licence at the time of accident. The award of rupees two lacs carrying interest at the rate of 12% per annum from the date of application till realisation has been made. Both sides have objections to this award and hence separate appeals and cross-objection have been filed assailing the same.

5. Learned counsel for parties were heard and record perused. There is enough evidence to prove that the claimants are legal representatives of the deceased who died in the accident on 14-2-1990 when Matador No. MOT 9039 driven rashly and negligently dashed against Tempo No. MIL 6144. Matador has been found responsible for committing the accident. This vehicle was insured with the Oriental Insurance Company Ltd. Therefore, it is established that the Insurance Company with which the vehicle was insured is liable to pay compensation.

6. Contention of Shri Ruprah, learned counsel for the Oriental Insurance Company that the vehicle was transport vehicle and there should have been endorsement on the licence to drive the transport vehicle can not be accepted. Light Motor Vehicle has been defined to mean a transport vehicle or omnibus the gross vehicle weight of either of which or a motor car or tractor or road-roller the unladen weight of any of which does not exceed 7,500 kilograms. Transport Vehicle has been defined in Section 2(47) to mean a public service vehicle, a goods carriage, an educational institution bus or a private service vehicle. Transport vehicle is included in the category of Light Motor Vehicle. The Matador vehicle is included in Light Motor Vehicle. Therefore, the Supreme Court decision in Manohar Jamatmal Sindhi and Another Vs. Ranguba and Others, does not apply in the present case. The relevant decision applicable would be of Apex Court reported in Ashok Gangadhar Maratha Vs. Oriental Insurance Co. Ltd., on which reliance is placed by the learned counsel for the claimants. Another decision is of this Court reported in Mohd. Karim Khan Vs. Shamsheer Khan Hasan Khan and Another,

7. Turning to the question of compensation to be awarded in this case, we find that the deceased was earning more than Rs. 800.00 per month as per the claim petition at the time of accident. Dhani Ram states that deceased was earning Rs. 5000.00 to Rs. 6000.00 per month. Since the income of the deceased has been stated to be Rs. 1200.00 in the claim petition, we accept this statement and after taking 1/3rd towards personal expenditure, monthly dependency comes to Rs. 800.00 (annually Rs. 9600.00). At the time of accident, the deceased was 25 years old, therefore, the multiplier of 18 would be applicable in this case. The amount of compensation calculated in this way comes to Rs. 1,72,800.00 (rupees 800 x 12 x 18 = 1,72,800.00). Smt. Savitri Bai is entitled to receive Rs. 5000.00 towards consortium and Rs. 2,000.00 towards funeral expenses taking the total compensation to Rs. 1,79,800.00. Accordingly, the award of the Claims

Tribunal is modified. The claimants are entitled to get compensation of Rs. 1,79,800.00 (rupees one lac seventy nine thousand eight hundred) only with interest at the rate of 10 (ten) per cent per annum from the date of application till the date of payment.

Consequently, M.A. No. 531 of 1998 is allowed. M.A. No. 830 of 1998 and cross-objections are dismissed. There shall be no order as to cost.

8. Misc. Appeal No. 531/98 allowed.

9. Misc. Appeal No. 830/98 dismissed.