

(2001) 01 MP CK 0020

In the Madhya Pradesh High Court

Case No : Miscellaneous Appeal No. 38/88

Smt. Shakuntalabai and others

APPELLANT

Vs

Naresh Kumar Punjabi and others

RESPONDENT

Date of Decision : 02-01-2001

Acts Referred:

Motor Vehicles Act, 1939 — Section 110

Citation : (2001) 2 MPHT 406

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

Bench : Division Bench

Advocate : Shri C.K. Sharma, for the Appellant; Shri Naman Nagrath and Shri Rajesh Patel, for the Respondent

Judgement

Bhawani Singh, C.J.—This appeal is directed against the award of Motor Accidents Claims Tribunal, Jabalpur, in Claim Case No. 56/84, dated 24-9-1987.

2. Claimants are legal heirs of Rajesh Kumar who died on 25-3-1984 in a motor accident which took place when truck bearing registration No. MPJ 4865 driven rashly and negligently by Abdul Majid, owned by Naresh Kumar Punjabi and insured with respondent No. 3, United India Insurance Co. Ltd., hit the deceased who was returning on bicycle from the hotel where he used to go for learning confectionary. The deceased was 14 years old at that time. After the accident, he was taken to the hospital where he was declared dead by the doctor. The truck driver attempted to escape from the site of the accident, but was caught and brought to book and the truck was seized.

3. Claimants submit that the deceased was earning Rs. 7-8 per day from the hotel and Rs. 334.00 per month from lime business. Allegation is that the accident took place due to rash and negligent driving of the vehicle by the driver. Total compensation of Rs. 1,00,000.00 has been claimed.

4. Respondents have denied taking place of the accident and liability to pay the compensation. It is stated that the deceased fell on the road himself and got

injured. Respondent No. 3, United India Insurance Co. Ltd. has denied the entire case. Consequently, parties led evidence whereon the Tribunal came to the conclusion that the accident took place on 25-3-84, committed by the truck bearing registration No. MPJ 4865 and driven rashly and negligently by Abdul Majid, respondent No. 2. As a result of this accident, deceased Rajesh Kumar fell from his bicycle, received the injuries and died as a result thereof. However, compensation of Rs. 12,000.00 with interest at the rate of 6% per annum has been awarded taking income of the deceased at Rs. 150-200 per month and dependency of Rs. 100.00 per month. The claimants are not satisfied with this award, therefore, it has been challenged through this appeal.

5. Counsel for parties were heard, record and evidence perused.

6. Sole question for determination in this case is the quantum of compensation awarded by the Tribunal on the basis of evidence and submissions advanced by counsel for respective sides. Deceased was 14 years at the time of accident. Apart from studying in Class VI, he was doing part time work in limestone and hotel. It may be true that evidence with regard to his earning is not very exact, however, the fact remains that he may be earning Rs. 7-8 per day from the hotel and Rs. 334.00 per month from lime business at this age and stage of life. Ultimately claim for Rs. 1,00,000.00 has been raised.

7. Taking into consideration the evidence to settle just compensation in matter of motor accident, we proceed to settle the compensation on the ground that the deceased was earning Rs. 7.00 per day from the hotel and Rs. 334.00 per month from the lime business. $\text{Rs. } 210.00 + \text{Rs. } 334.00 = \text{Rs. } 544.00 \times 12 = \text{Rs. } 6,528.00$ minus $\frac{1}{3}$ towards personal expenses by the deceased on himself $\times 15 = \text{Rs. } 73,780.00$ would be the compensation payable to the claimants in this case. Adding Rs. 10,000.00 for loss of expectancy of life, Rs. 2500.00 as loss to the estate and Rs. 2,000.00 for funeral expenses, the total amount of compensation would be Rs. 88,280.00. The enhanced compensation will carry interest at the rate allowed by the Tribunal from the date of application till payment.

8. Costs on parties.