
(2001) 09 MP CK 0036

In the Madhya Pradesh High Court

Case No : Miscellaneous Appeal No. 483 of 2001

Sonabai

APPELLANT

Vs

Bhabut Singh and Others

RESPONDENT

Date of Decision : 14-09-2001

Acts Referred:

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

Citation : (2003) ACJ 1156 : (2002) 1 MPHT 118 : (2002) 1 MPLJ 542

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

Bench : Division Bench

Advocate : Abhishek Gupta, for the Appellant; Rajendra Menon, 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. 177/97, dated 12-2-2001.

On 25-8-97, Imratlal Gond (deceased) was going to Bhedaghat for making purchases. When he reached the gelatin factory, Jeep No. MP-04-H-5059, driven rashly and negligently, hit him as a result of which he fell down on the spot and became unconscious. On 16-11-97, he died. Bhedaghat police registered a criminal case against the driver Ashok Kumar who was driving the jeep at the time of accident. Bhabutsingh Choudhary is the owner of the jeep. At the time of accident, deceased was Chowkidar and earning Rs. 2,800.00 per month. Towards medicines, he spent Rs. 50,000.00, apart from the other expenses. Claimant is the widow of the deceased. She states that her husband was 50 years old and the family suffered loss of Rs. 5,31,000.00 due to his death.

Respondents 1 and 2 filed written statement, but at the time of recording evidence, they remained absent and were proceeded ex-parte.

Respondent No. 3 is the Insurance Company with which the vehicle was insured. This respondent has alleged that the deceased was not 50 years old, nor was he

earning Rs. 2,800.00 per month; he did not die due to the injuries suffered by him in this accident; he had recovered from all the injuries and died on 17-11-97, which indicates that he did not die due to the injuries suffered by him in this accident. Consequently, the claim, it is alleged, is not sustainable and liable to be dismissed.

Claims Tribunal considered the matter and came to the conclusion that the deceased did not die due to the injuries suffered by him in this accident. However, it found that the deceased suffered the injuries when Jeep No. MP-04-H-5059, driven rashly and negligently by the driver Ashok Kumar hit him in front of the gelatin factory resulting in injuries and falling down on the ground; deceased was 50 years old and earning Rs. 2,800.00 per month; and deceased was not responsible for the accident. Compensation of Rs. 50,000.00 has been awarded with interest at the rate of 12% per annum. Claimant is not satisfied with this award and, therefore, it has been challenged through this appeal.

There is no dispute with respect to taking place of the accident in front of the gelatin factory on 25-8-97 wherein deceased suffered injuries and fell down. There is also no dispute that the deceased died on 16-11-97. There is also no dispute that the accident was the result of rash and negligent driving of the jeep by the driver Ashok Kumar. The dispute is with respect to cause of death and adequacy of compensation.

Shri Abhishek Gupta, learned counsel for appellant, submits that the deceased suffered serious injuries in this accident. One of the injuries was on the head as a result of which he fell down unconscious on the road. Despite treatment, he could not recover and it was the direct cause of brain haemorrhage, since right and left frontal lobe were damaged in this accident. With this evidence and background, finding of the Claims Tribunal to the contrary is not sustainable and deserves to be set aside. It is submitted that the direct cause of death was the injuries suffered by the deceased in this accident and death may have taken place on 16-11-97.

Dr. B.K. Sakalle (A.W. 3) and Dr. S.S. Chincholiker (A.W. 4) have proved their reports.

Shri Abhishek Gupta, learned counsel for the appellant, submitted that compensation awarded by the Claims Tribunal deserves to be enhanced in view of the conclusion arrived at by this Court as to the cause of death due to the injuries suffered in this accident. Learned counsel submits that the deceased was 50 years old at the time of accident. He was Chowkidar in the Public Works Department, National Highway, Shahpur Sub-Division, Jabalpur, earning Rs. 2,800.00, as per salary certificate (Ex. P-7). There is substance in the submissions of learned counsel for the appellant.

Accordingly, taking into consideration the monthly salary of Rs. 2,800.00, and after deducting 1/3 towards personal expenses, monthly dependency comes to Rs. 1,658.00. Multiplied by 12 and 13, the amount of compensation comes to Rs.

2,58,648.00 plus Rs. 2,000.00 for funeral expenses, Rs. 2,500.00 for loss to the estate, Rs. 10,000.00 as loss for expectancy of life and Rs. 5,000.00 for loss of consortium, taking the total amount of compensation to Rs. 2,78,148.00. Towards medical treatment, there are medical vouchers (Exs. P-8 to P-64). Therefore, taking into consideration the bills and nature of injuries suffered and the time for which deceased had been taking treatment, it would be just and proper to allow Rs. 25,000.00 towards medical treatment.

Thus the total amount of compensation comes to Rs. 3,03,148.00. The enhanced compensation will carry interest at the rate of 9% per annum from the date of accident till payment.

Costs on parties.