

(1993) 04 MP CK 0017
In the Madhya Pradesh High Court
Case No : M.A. No. 31 of 1985

Sontiya and Others

APPELLANT

Vs

New India Assurance Co. Ltd. and Others

RESPONDENT

Date of Decision : 12-04-1993

Acts Referred:

Motor Vehicles Act, 1939 — Section 110D

Citation : (1994) ACJ 72

Hon'ble Judges : S.K. Dubey, J;S.K. Chawla, J

Bench : Division Bench

Advocate : Mahesh Haswani, for the Appellant; V.K. Sharma, for the Respondent

Judgement

S.K. Dubey, J.—This is an appeal u/s 110-D of the Motor Vehicles Act, 1939, for enhancement of the compensation awarded in Claim Case No. 11 of 1983, on 10.1.1985, by Motor Accidents Claims Tribunal, Gwalior.

2. The facts are not disputed. Deceased Gyasiram, aged 35 years at the time of accident, was earning Rs. 600/- per month. The learned Tribunal assessed the dependency of seven dependants at the rate of Rs. 300/- per month, while Rs. 300/- was deducted from the monthly earnings of the deceased as the deceased's own expenses. After selecting the multiplier of 15, a compensation of Rs. 54,000/- was determined. But, after deducting 15 per cent towards lump sum payment, the compensation awarded was Rs. 45,900/-, which was directed to be paid with interest at the rate of 6 per cent per annum from the date of the award till payment.

3. Mr. Mahesh Haswani, placing reliance on State of M.P. and Another Vs. Ashadevi and Others, and Fiza Bai's case 1992 (2) MPJR 333, contended that when the Tribunal selected a multiplier, no deduction towards lump sum payment could have been made as the multiplier selected takes into consideration all heads of claims. It was also contended that the dependency for seven dependants at Rs. 300/- per month is too low as the deceased could not have

spent as his own expenses at Rs. 300/- per month. It was further contended that the Tribunal further erred in not awarding interest at the rate of 12 per cent per annum from the date of the application as the law is well-settled in that regard.

4. Mr. V.K. Sharma, counsel appearing for the insurer, relying on a short-noted decision of this court in the case of Madhya Pradesh State Road Transport Corporation v. Sushiladevi 1990 (2) MPWN 6, contended that the compensation under the head of solatium (Sic. consortium) and loss of company amounting to Rs. 7,000/- could not have been awarded, when the multiplier was selected which takes care of all the heads for which compensation is to be calculated.

5. After hearing counsel, we are of the opinion that the dependency arrived at the rate of Rs. 300/- per month is too low which, in the circumstances of the case, deserves to be enhanced from Rs. 300/- to Rs. 425/- per month; as a consequence of that annual dependency comes to Rs. 5,100/-, multiplied by 15, the compensation comes to Rs. 76,500/- to which the claimants are entitled. As the compensation has been determined by selecting the multiplier, the deduction towards lump sum payment cannot be made. Therefore, the deduction made by the Tribunal on this score is unjustified and is not allowed.

6. Coming to the question of solatium, in this matter though Mr. Sharma has relied upon a decision of the Division Bench, but in a later decision of this court, a contrary view has been expressed. But, Mr. Haswani submitted that in view of the fact that the compensation has been enhanced and on that interest at the rate of 12 per cent from the date of application is payable, the claimants do not want to claim the same. As the claimants have relinquished the claim of compensation on the heads of consortium and loss of company, it is not necessary for us to deal with the claim on the said heads.

7. In the result, the appeal is partly allowed. The impugned award of the Tribunal is modified by enhancing the compensation from Rs. 52,900/- to Rs. 76,500/- to which the claimants-appellants shall be entitled. The said amount shall carry interest at the rate of 12 per cent per annum from the date of application till payment. However, it is stated by Mr. Sharma that the amount awarded by the Tribunal has already been deposited on 12.3.1985 with the Tribunal. If that is so, the insurance company shall deposit the balance amount with proportionate interest within a period of six weeks from today. The respondents shall also pay costs of this appeal which we quantify at Rs.750/-.