
(1995) 01 MP CK 0046
In the Madhya Pradesh High Court
Case No : M.F.A. No. 367 of 1985

Suresh Kumar and Another	Vs	APPELLANT
Madhya Pradesh State Road Transport Corpn. and Others		RESPONDENT

Date of Decision : 04-01-1995

Acts Referred:

Citation : (1996) ACJ 278 : (1998) 3 LLJ 1051

Hon'ble Judges : P.N.S. Chauhan, J; D.K. Jain, J

Bench : Division Bench

Advocate : Ashok Lalwani, for the Appellant; A.G. Dhande, for the Respondent

Final Decision : Allowed

Judgement

P.N.S. Chouhan, J.—On July 14, 1981 when Imrat was coming on a bicycle he was struck down by bus No. MPJ 8697 owned by Respondent No. 1 and driven by respondent No. 3. As a result he died giving rise to Claim Case No. 2 of 1982 decided by M.A.C.T. Chhindwara, on May 2, 1985. It was held that the deceased was an agriculturist earning a sum of Rs. 12,000/- per year. He had no other source of income. His age was 30-35 years at the time of accident. He left behind a widow, appellant No. 2 and a minor son, appellant No. 1. It was also held that the accident was as a result of rash and negligent driving of the bus by respondent No. 3. On the basis of Balwant Singh Vs. Jhannubai and Others, and V. Rajeswara Rao v. Kama Audemma 1977 ACJ 462 (AP), the Tribunal concluded that a sum of Rs 10,000/- was the just compensation for the death of Imrat to his heirs. Accordingly, award of Rs. 10,000/- with interest at the rate of 6 per cent per annum from the date of the application till realisation was passed which is under challenge in this appeal.

2. Appellants learned Counsel argued that there was evidence of the widow Rupabai, AW 3, to the effect that her husband was managing his farm with the assistance of one servant but after his demise the family had to engage two additional servants to run the farm because her only son, appellant No. 1, was a

minor then. She has also stated that the additional servants were being paid remuneration of Rs. 2,000/- a year. From her evidence it is clear that her minor son was studying in class VI at the time of the accident and his studies had to be discontinued on account of this tragedy. On this basis, contends the learned Counsel, the Tribunal was obliged to have awarded compensation on the basis that at least for the next ten years the family would have been required to engage the said additional farm servants incurring an expenditure of Rs. 4,000/- a year. Thus viewed the compensation on this head would have been not less than Rs 40,000/-. The citations relied on by the learned Tribunal were distinguishable on facts. We see no reason not to agree with the learned Counsel in this behalf that at least a sum of Rs. 40,000/- should have been awarded.

3. It was then urged that even in the absence of evidence a reasonable amount should have been awarded as funeral expenses and for loss of consortium. We agree. We hold that in the facts and circumstances of the case, a sum of Rs. 5,000/- as funeral expenses and Rs. 10,000/- for loss of consortium may be awarded.

4. It was lastly urged that a reasonable amount for loss of career of appellant No. 1 on account of stoppage of his studies should also be awarded. There is no material to show the mental ability of the said boy and, therefore, to award anything on this head will be an arbitrary surmise which need not be resorted to.

5. In the result, this appeal is allowed. The impugned award is modified thus. Respondent Nos. 1 and 3 should jointly and severally pay a sum of Rs. 55,000/- with interest at the rate of 12 per cent per annum from the date of application. They shall also pay a sum of Rs. 1,500 as costs to the appellants.