
(1996) 01 MP CK 0009
In the Madhya Pradesh High Court
Case No : M.A. No. 353 of 1995

Uday Chand Jain and Others	Vs	APPELLANT
Sukhvilas Jain and Others		RESPONDENT

Date of Decision : 05-01-1996

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (1997) ACJ 1041

Hon'ble Judges : R.D. Shukla, J;N.K. Jain, J

Bench : Division Bench

Advocate : H.G. Shukla, for the Appellant; P.C. Saxena, for the Respondent

Judgement

N.K. Jain, J.—This is an appeal u/s 173 of the Motor Vehicles Act, 1988 from the award dated 30.3.1995 passed by the 1st Motor Accidents Claims Tribunal, Ujjain in Claim Case No. 5 of 1993 awarding compensation in the sum of Rs. 3,70,905/- to the respondents-claimants in a fatal accident action.

2. The respondents-claimants are the mother, widow and children of Saubhagmal, aged 38 years who died in a motor accident that occurred on 21.10.1992 at Nagda, District Ujjain, involving a tanker owned by the appellant No. 1 driven by the appellant No. 2 and insured with the appellant No. 3, the New India Assurance Co. Ltd. for third party risk.

3. The deceased Saubhagmal at the time of his unfortunate death was employed with Bharat Commerce Industries on a monthly salary of Rs. 1,565.69. These facts along with the finding of the Tribunal that the accident occurred due to actionable negligence on the part of the driver of the vehicle are not disputed before us.

4. The Tribunal while assessing the compensation has adopted the multiplier method. The dependency was calculated at Rs. 24,000/- per annum, while a multiplier of 15 was applied. Accordingly a sum of Rs. 3,60,000/- was assessed as damages to which Rs. 5,905/- as expenses on medicines and Rs. 5,000/- for

loss of consortium were added making the total award for Rs. 3,70,905/-.

5. The learned Counsel for the appellant has assailed the award on the ground that the amount of compensation awarded by the Tribunal is too high. According to him, the dependency as well as the multiplier of 15 were wrongly calculated. As against this, the respondents have defended the award and it was contended on their behalf that the amount awarded to them is rather on the lower side.

6. The multiplier method is now legally well established. For applying this method the Hon"ble Supreme Court in a recent decision in General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others, , has laid down guidelines as follow:

The multiplier method of calculation of compensation u/s 110-B of the Motor Vehicles Act, 1939, involves ascertainment of the loss of dependency or the multiplicand having regard to the circumstances of the case and capitalizing the multiplicand by an appropriate multiplier. The choice of the multiplier is determined by the age of the deceased (or that of the claimants whichever is higher) and by the calculation as to what capital sum, if invested at a rate of interest appropriate to a stable economy, would yield the multiplicand by way of annual interest. Regard should also be had to the fact that ultimately the capital sum should also be consumed up over the period for which the dependency is expected to last. The multiplier method is logically sound and legally well-established method of calculating compensation.

7. Turning to the facts of the case in hand, admittedly the deceased was an employee of Bharat Commerce Industries on a monthly salary of Rs. 1,565.69, although the respondents had claimed that the deceased was doing some private business too and earning about Rs. 7,000 to Rs. 8,000/- per month. But this claim of the respondents was disallowed by the Tribunal and the Tribunal's finding on the point is not under challenge before us. However, the Tribunal has agreed with the claimants that the deceased had some income from agriculture also which the Tribunal estimated at about Rs. 1,500/- per month. We may, however, observe here that the land owned by the deceased was less than 72 acre and there was no definite evidence about his income from this land. The amount of Rs. 1,500/- per month estimated by the Tribunal on this count is clearly excessive. Having regard to the area of land, his income from this source can at best be estimated at Rs. 300/- per month. His total income from all sources thus comes to Rs. 1,865/- per month, i.e., Rs. 22,380/- per annum. Making allowance for the expenses on himself, i.e., 73rd of the total income, the net dependency comes to Rs. 15,000/- per annum.

8. As regards the multiplier, the Tribunal has adopted multiplier of 15. But in the case of General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others, , where the age of the deceased was also 38 years, the Hon"ble Supreme Court has adopted multiplier of 12. In the instant case also we see no reason to adopt a different multiplier. By applying multiplier

of 12, the amount of damages comes to Rs. 1,80,000/-. A sum of Rs. 5,000/- needs to be allowed to each claimant towards loss of consortium, love and affection on account of untimely death of the deceased. By adding this amount, total amount of the award thus comes to Rs. 2,00,000/-.

9. Accordingly, we allow this appeal in part only and the amount of award of Rs. 3,70,905/- awarded by the Tribunal is reduced to Rs. 2,00,000/- only. Out of the total amount of award, Rs. 30,000/- shall be paid in lump sum to the respondent Mohan Bai while the remaining amount shall be shared equally by the other 3 respondents; 50 per cent of the amount payable to other respondents shall be deposited in fixed deposit with some nationalised bank for a period of 10 years. Rest of the directions given by the Tribunal are confirmed. No order is also made as to the costs of this appeal.