
(1996) 09 MP CK 0089
In the Madhya Pradesh High Court
Case No : M.A. No. 118 of 1996

Union of India (UOI) and Others

APPELLANT

Vs

Ramji Lal and Another

RESPONDENT

Date of Decision : 04-09-1996

Acts Referred:

Constitution of India, 1950 — Article 41
Penal Code, 1860 (IPC) — Section 304A

Citation : (1996) 09 MP CK 0089

Hon'ble Judges : A.S. Tripathi, J

Bench : Single Bench

Advocate : N.P. Mittal, for the Appellant; N.D. Singhal, for the Respondent

Final Decision : Dismissed

Judgement

A.S. Tripathi, J.—This appeal has been preferred against the judgment and award dated 29.1.1996 passed by the Motor Accidents Claims Tribunal, Shivpuri, granting compensation to the respondents to the extent of Rs. 60,000/- with interest at the rate of 12 per cent per annum from the date of claim application, i.e., from 26.3.1991 till realisation.

2. Facts of the case are that the respondents had put in a claim for compensation for the death of their son in an accident which had occurred on 8.3.1991. It was alleged that Ashish Kumar Sharma, appellant No. 3, was driving a Government truck No. CHW 7342 on a high speed and dashed against the moped M.80 MIH 8206, on which deceased Veeru was also sitting. In this accident, Veeru was riding on the moped along with his friends who were going towards Kali Maa Ka Temple. The aforesaid truck dashed against the moped. Veeru died on the spot. An F.I.R. was lodged and a criminal case was got registered. Veeru was a boy of 11 years and was studying in Class III. He was also helping his parents/respondents in their business. The respondents claimed Rs. 1,54,000/- as compensation.

3. On the other hand, the appellants denied the involvement of the truck in the accident, rather they contended that the truck had passed away and after hearing alarms from behind, the truck stopped and then it was found that the moped had dashed against a culvert and Veeru had died.

4. The Tribunal framed necessary issues and after recording evidence, came to the conclusion that Veeru had died in the accident in which the aforesaid truck had dashed against the moped, killing Veeru on the spot. The documents, copy of the F.I.R., Exh. P-1, dehati nalishi, Exh. P-2 and site plan Exh. P-3 were proved on record. In the evidence of PW 2, Hari Krishna Ojha, it has come that the truck had dashed against the moped killing Veeru on the spot. It was also stated that the accident had taken place on the National Highway and the truck was being driven at a very high speed carelessly. Jankiprasad, PW 3, had also stated the same facts and corroborated the manner in which the accident had taken place. Ramji Lal Jhahad, PW 1, also supported these facts and there was no reason to disbelieve them. On the other hand, the witnesses produced by the appellants had simply stated that some boys had fallen down on the road.

5. The Tribunal assessed this evidence and found that the moped had not dashed against a culvert and it was the truck which had dashed the moped. The moped fell down on the ground and Veeru was killed on the spot.

6. There is nothing to differ with the finding of the Tribunal on this point based on cogent evidence. Further the postmortem report shows that a number of injuries were found on the body of the deceased Veeru, which could be caused only by dashing against a heavy substance and the same could not be caused by a mere fall on a culvert. In this way, the Tribunal rightly recorded a finding that the accident had taken place on account of rash and negligent driving of the truck and the same is fully justified.

7. It is true that it has come in evidence that three boys were sitting on the moped, but that by itself does not disentitle the claim for the death of Veeru, which was caused in the accident by the truck. It is noteworthy that the boys were going on a small moped to the temple in the town of Shivpuri, which is a busy town. Rush is also there on the main road. By a mere fall on a culvert or on the ground, death could not take place. It was quite evident from the facts and circumstances of the case that the aforesaid truck was being driven at a high speed with negligence, otherwise this accident could not have taken place. In a market place, heavy vehicle is to be driven with great caution. It is an established principle of law that heavier the vehicle, greater the responsibility. In this context Tribunal was fully justified in recording a finding based on evidence that the accident had taken place by the truck which was being driven rashly and negligently killing Veeru on the spot. Therefore, the findings of the Tribunal on this point are confirmed.

8. On the point of quantum of compensation, the Tribunal had taken into consideration that the boy was school going and was also assisting his parents in

their business. Therefore, on a fair assessment, Rs. 60,000/- was found to be the proper amount of compensation to be given to the parents of the deceased.

9. Learned counsel for the appellant placed reliance on the case of Sanjay Kumar and Another Vs. Munnalal and Another, , on the point of manner of accident. Learned counsel for the appellants further argued that the moped was not driven on proper licence by the boys who were riding and no compensation could be awarded. He placed reliance on the case of New Indian Assurance Co. Ltd. Vs. Mandar Madhav Tambe and others, . In that case, the Supreme Court had held that if the vehicle was not driven by a driver holding a proper licence, the insurance company could not be held liable. This is not a case before me in which the insurance company is involved. He also placed reliance on the cases of Dwarka Prasad Agarwal v. Samrath Singh 1984 ACJ 160 (MP) and Dipendra Shah v. M.P.S.R.T.C 1983 MPWN 363, in which it was held that if the deceased himself was negligent in the accident, no compensation could be awarded.

10. As pointed out earlier, negligence on the part of the driver of the appellant Department has been proved on record. No negligence was found on the part of the deceased who was merely riding on the moped driven by some other boy, hence, it could not be said that the deceased was negligent in this accident. Therefore, no benefit could be given to the appellants on the basis of these case-laws.

11. On the other hand, learned Counsel for the respondents placed reliance on the case of State of U.P. and Others Vs. Vidyawati Singh and Another, , in which it was held that even if three persons were riding on a motor cycle, it could not be inferred that the negligence must have been on their part.

12. In the case of N.K.V. Bros. (P) Ltd. v. M. Karumai Animal 1980 ACJ 435 (SC), in which it was observed by the Supreme Court that the court should not rely upon the technicalities of the matter; broad aspect of the matter has to be judged...Judicial Tribunals are State organs and Article 41 of the Constitution lays the jurisprudential foundation for State relief against accidental disablement of citizens. There is no justification for niggardliness in compensation. In this case, the Supreme Court also held that if the criminal case u/s 304A, Indian Penal Code, had ended in acquittal, even that will not disentitle the survivors to claim compensation which can be judged on the facts of each case.

13. In the case of Madhya Pradesh State Road Trans. Corpn. Vs. Rajendra Kumar and Others, this Court had held that the findings of facts recorded by the Tribunal should normally be accepted, unless there are glaring mistakes in the same. The finding of facts recorded on the points of negligence and quantum of compensation by the Tribunal in this case is fully justified and based on the evidence on record and there is nothing to show that the Tribunal had committed any error in the same.

14. In the case of Madhusudan Das Vs. Smt. Narayanibai (Deceased) by Lrs. and Others, , it was laid down that the assessment of evidence by the trial court

should normally be accepted.

15. In view of the facts and circumstances of the case and the findings recorded above, it is held that the Tribunal had rightly awarded compensation to the claimants-respondents and the amount of compensation is also proper.

16. There is no merit in this appeal and it is dismissed with costs.