
(2001) 07 MP CK 0018
In the Madhya Pradesh High Court

United India insurance Co. Ltd.

APPELLANT

Vs

Sangita and Others

RESPONDENT

Date of Decision : 11-07-2001

Acts Referred:

Citation : (2002) 3 ACC 615

Hon'ble Judges : J.G. Chitre, J;A.M. Sapre, J

Bench : Division Bench

Judgement

A.M. Sapre, J.—The appellant-an Insurance Company has filed this appeal against an award dated 5.2.1997 passed by MACT, Dhar in Claim Case No. 19/ 1995. By impugned award, the claim petition filed by the legal representatives of deceased Arjun was partly allowed and a total sum of Rs. 4,51,500/- was awarded.

2. Heard Mr. S.S. Swami for the appellant and Mr. Ravi Agrawal for respondent Nos. 1 to 5.

3. In a claim petition filed by the respondents claiming compensation for the death of Arjun-husband of respondent No. 1 and son of respondent Nos. 2 and 3, the learned Member of Tribunal as stated supra awarded a total sum of Rs. 4,51,500/-. In the Tribunal both the non-applicants i.e. owner of vehicle as also the appellant (who was N.A. No. 2) remained ex parte. In other words, despite service of the claim petition, none contested the claim nor filed any written statement nor even entered appearance. It is only when they suffered the impugned award, the Insurance Company chose to challenge it by filing this appeal.

4. Having heard the learned Counsels for the parties and having perused the record of the case, we find no merit in this appeal. In our considered opinion, the appellant-an Insurance Company who did not contest the case before the Tribunal and remained ex parte throughout has no defence to stand. In other words, nothing prevented the appellant from filing its written statement and

contest the claim petition on merits on the limited defences available to them under the Motor Vehicles Act. When the appellant failed to avail of an opportunity to contest the claim petition it has no right to impugn an award for want of no material on record at their instance.

5. In our opinion, the Tribunal was justified on facts and evidence brought on record to award reasonable compensation for the death of Arjun--a driver of vehicle which was involved in an accident. The deceased was aged 30 years and was a bread earner of family, lost his life at a young age leaving behind his young widow and aged parents who were deprived of their livelihood as they all were dependent upon the income of deceased.

6. In our opinion, a sum of Rs. 4,51,500/- awarded by the Tribunal after taking into account all facts and circumstances, income of the deceased, etc. is not on very high level. It cannot be held to be excessive so as to invoke the appellate powers at the instance of Insurance Company to reduce it. It is much more so when there has been no contest in the Trial Court at the instance of appellant who was ex parte throughout.

7. Learned Counsel for the appellant sought to assail the award on factual aspects. We do not think that Insurance Company can be allowed to go into the factual field because of their limited defences available under the Act while defending their rights. Since in this case even the written statement was not filed by the appellant before the Tribunal and hence we do not find any merit in this submission. It is accordingly rejected.

8. To conclude we do not find any merit in the appeal. It is accordingly dismissed. No cost.