(2010) 12 MP CK 0034

In the Madhya Pradesh High Court

Case No : M.A. No. 1114 of 2009

Vidhyawati Dohre and Others — APPELLANT

Vs

Kashinath and Others — RESPONDENT

Date of Decision : 15-12-2010

Acts Referred:
Motor Vehicles Act, 1988 — Section 166, 173

Citation : (2012) 3 TAC 637

Hon'ble Judges : J.K. Maheshwari, J

Bench : Single Bench

Advocate : Shankar Dinghra, for the Appellant; B.N. Malhotra, for the Respondent

Judgement

J.K. Maheshwari, J.—This appeal is filed by the appellants u/s 173 of the Motor Vehicles Act against an award dated 9th July, 2009, passed by learned Sixth Additional M.A.C.T., Guna, in Claim Case No. 183 of 2008. By the impugned award, the Claims Tribunal has awarded a total sum of Rs. 14,17,872/- with interest to the claimants by way of compensation in the accident which occurred on 26th September, 2008, causing death of Ramsevak Dohre (aged 42 years). The appellants had preferred a claim petition u/s 166 of the Motor Vehicles Act, seeking compensation to the tune of Rs. 56,36.720/ -. According to the appellants, compensation awarded by the Tribunal is on the lower side and deserves enhancement. However, by filing the appeal, inadequacy of the compensation has been assailed.

2. It is not necessary to narrate entire facts in detail, such as how the accident occurred, who was negligent in driving the offending vehicle, who is liable to pay compensation, etc., because the Tribunal has already recorded the findings in favour of the appellants. None of those findings have been challenged at the instance of the respondent, i.e., owner/driver/ Insurance Company by filing the cross-objection or cross-appeal. In that view of the matter, it is not necessary to burden the judgment by detailing the facts on all these issues.

3. Mr. Shankar Dhingra, learned Counsel for appellants submits that on account of the death of deceased, the bread-earner of the family has been lost, and the compensation awarded by the Tribunal is inadequate without due assessment of earning dependency; and the proper multiplier has not been applied in assessing the loss of dependency. In conventional heads, the amount awarded is on lower side, which deserves to be enhanced.

4. Mr. B.N. Malhotra, learned Counsel appearing for the respondent Insurance Company, has relied upon the findings recorded by the Claims Tribunal and argued that the award of compensation is just, proper and reasonable.

5. The Tribunal has awarded total sum of Rs. 14, 17,872/-. Accepting the salary of the deceased as Rs. 13,517/ it is the contention of the appellants that it was a salary of only 26 days, while the gross salary of the deceased comes to Rs. 15,778/-. After deduction of income tax as per the slab it comes to Rs. 1,70,000/- annually, however after deducting 1/4th, looking to the number of dependent the multiplier of 13 ought to have been made applicable and the compensation would have been calculated accordingly. I find much substance in the argument of Mr. Dhingra. While Mr. Malhotra opposing such enhancement supported the findings of the award passed by the Claims Tribunal, which in the opinion of this Court is not justifiable. If we calculate, in view of the aforesaid, the total loss of dependency comes to Rs. 16,57,500/-. If we further add Rs. 30,000/- under the conventional heads it comes to Rs. 16,87,500/- then the net enhanced amount comes to Rs. 2,69,682/-, while rounding off the same, enhanced amount comes to Rs. 2,70,000/- and is hereby enhanced. In view of the aforesaid, this appeal is allowed in part and the appellants are held entitled to receive the total sum of Rs. 2,70,000/- in addition to the amount of compensation already awarded by Claims Tribunal without affecting the direction of the Claims Tribunal regarding depositing the amount of compensation and liability. The enhanced amount shall carry interest at the rate of 6 per cent per annum from the date of application till its realization. In the facts and circumstances of the case parties are directed to bear their own costs.