

Smt. Laxmi Devi Dwivedi and ors. Vs. State of M.P. and ors.

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Court : Madhya Pradesh

Decided On : Jan-07-2003

Reported in : 2005ACJ106; 2003(1)MPHT544

Judge : Bhawani Singh, C.J. and ;S.L. Jain, J.

Acts : [Motor Vehicles Act, 1988](#) - Sections 168, 171 and 173

Appeal No. : Misc. Appeal No. 779/98

Appellant : Smt. Laxmi Devi Dwivedi and ors.

Respondent : State of M.P. and ors.

Advocate for Def. : P.D. Gupta, Dy. Adv. General for Respondent Nos. 1 to 5

Advocate for Pet/Ap. : N.K. Tiwari, Adv.

Judgement :

ORDER

1. This appeal is directed against the award passed by Motor Accidents Claims Tribunal, Shahdol, Claim Case No. 30/92, dated 12-12-1997.

2. Vinod Kumar- Dwivedi was Sub-Auditor, Panchayat Department, Government of Madhya Pradesh. On 10-1-1991 at about 12.30 P.M. he had gone to Anuppur and Kotma with his colleagues by Jeep No. CPZ 2951. This jeep was of Forest Department driven by Sunderlal and purpose of visit was election duty. When they

reached a place between Anuppur and Chachai, it fell into the river. This happened because driver was driving it rashly and negligently. As a result, deceased suffered serious injuries and died in the District Hospital, Shahdol, on 11-1-1991. At the time of accident he was receiving salary of Rs. 1,958/- per month. He was 33 years old at that time. He left behind wife Smt. Laxmi Devi Dwivedi (30), daughters Ku. Anju (9), Ku. Neelu (7), Ku. Renuka (5), Ku. Rashmi (3) and Ku. Ruchi (5 months). On account of this death, the family has been left high and dry since it was entirely depending on the deceased. Compensation of Rs. 11,67,000/- has been claimed.

3. Respondents have denied that the driver was driving the vehicle rashly and negligently. Claim is exaggerated. The driver was compelled to drive the vehicle with three occupants during night. The claimant has been appointed on compassionate ground, therefore, claim is liable to be dismissed.

4. Claims Tribunal has held that the accident took place as alleged in which deceased died and that the claimants were entitled to maintain the petition. Ultimately, compensation of Rs. 65,000/- has been awarded with interest at the rate of 12 per cent per annum with cost Rs. 500/-. The Claims Tribunal awarded this compensation holding that wife was receiving pension and had been appointed on compassionate ground, therefore, she was not entitled to compensation.

5. Shri N.K. Tiwari, learned Counsel appearing for the appellants submits that Claims Tribunal has committed serious error in assessing the income of the deceased therefore, just compensation has not been awarded. There would be no reduction on account of pension and compassionate appointment. Reliance is placed on Division Bench decision of this Court in Smt. Dayavati Bai and Ors. v. Devendra Singh and Ors., 2000(1) M.P.H.T. 1 (NOC), which, after taking into consideration some decisions of this Court, holds that in view of consistent view of the Court, family pension payable to the widow of deceased is not to be deducted from the amount of compensation awarded.

6. The finding of the Claims Tribunal with regard to accident being result of rash and negligent driving of the vehicle is sustainable on the evidence in the case. The

dispute relates to assessment of compensation. On the date of accident deceased was receiving salary of Rs. 1,958/- per month. After making deduction of 1/3rd toward personal expenditure monthly dependency comes to Rs. 1,306/-, yearly Rs. 15,672/-. At the time of accident, deceased was 33 years old. By application of multiplier of 17, the compensation works out to Rs. 2,66,414/-.

7. The contention of Shri P.D. Gupta, Deputy Advocate General that since wife of deceased has been appointed on compassionate ground, compensation to the extent of salary being received by appellant should be deducted. We do not accept this contention. Compensation is awarded on account of the death of deceased who happens to be her husband. It is arrived at on the basis of certain principles, while appointment on compassionate ground is, by way of compassion, shown by the employer due to the death of its employee during employment and governed by executive orders/instructions. Under Motor Vehicles Act wife is one of the legal heirs of the deceased, therefore, entitled to maintain petition for compensation. A Division Bench of Andhra Pradesh High Court has taken similar view in Andhra Pradesh State Road Trans. Corporation v. G. Jana Bai and Ors. (2002 ACJ 502). Therefore, the contention is rejected.

8. Apart from the compensation assessed above, claimants are also entitled to Rs. 7,000/- for loss of expectancy of life, Rs. 5,000/- for consortium to the wife, Rs. 2,500/- for loss to the estate and Rs. 2,000/- for funeral expenses. Therefore, the total amount of compensation payable in this case is Rs. 2,82,414/-. Enhanced compensation will carry interest at the rate of 9 per cent per annum from the date of application till payment. Costs on parties.