Chhotelal and Others Vs. Manoj Kumar and Others

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Court : Madhya Pradesh

Decided On : Oct-10-2000

Reported in : 2001(2)MPHT105

Judge : Mr. Bhawani Singh, C.J. and ;Rajeev Gupta, J.

Acts : Motor Vehicles Act, 1988 - Sections 168, 171 and 173; Indian Penal Code (IPC), 1860 - Sections 279, 304 and 337

Appeal No. : Misc. Appeal No. 1190/99

Appellant : Chhotelal and Others

Respondent : Manoj Kumar and Others

Advocate for Def. : S.K. Rao, Adv.

Advocate for Pet/Ap. : Shri S.L. Kochar, Adv.

Disposition : Misc. appeal partly allowed

Judgement :
ORDER

Bhawani Singh, C.J.

1. This appeal is directed against the award of the Motor Accidents Claims Tribunal, Multai, in M.C.C. No. 14/98, dated May 14, 1999.

2. Briefly, it may be stated that the accident took place on 4-12-1997 at 12 (noon) when Bhajanlal (deceased) and Ravi were coming from Multaion bicycle. It was being driven by the deceased. Bus No. MKD-7921 hit the cycle from behind resulting in serious injuries to the deceased as a result of which he died instantaneously. The bus was being driven by Punjab Rao and it was insured with respondent No. 3, the New India Insurance Co. Ltd. Consequently, criminal case under Section 279/337/304, IPC was registered and the driver charge-sheeted for these offences.

3. At the time of accident, deceased was 28 years old. He was an agriculturist earning Rs. 60,000.00 to Rs. 70,000.00 annually out of agricultural operations. Besides, he was earning Rs. 8,000 to Rs. 9,000.00 per month from the tractor. Claim for Rs. 4,89,500.00 has been preferred by the claimants against the respondents who have admitted taking place of the accident. It is also admitted that Manoj Kumar was the owner of the vehicle which was insured with the New India Insurance Co. Ltd. However, it is pointed out that the deceased died due to negligent driving of the bicycle.

4. Insurance Company has denied the allegations of the claimants. It also stated that the claimants have not produced documents concerning the age of the deceased, nor produced the driving licence. The bus was carrying 60 to 70 passengers, more than the permissible limit, thereby committing breach of the policy.

5. On the pleadings of parties, the Claims Tribunal framed issues, recorded evidence and came to the conclusion that the claimants are heirs of the deceased entitled to maintain the petition. The accident took place as alleged in which the deceased died. It also found that it had not been proved that the driver did not possess valid driving licence and committed breach of the policy conditions. Consequently, claim has been allowed to the extent of Rs. 1,89,500.00, carrying interest at the rate of 12% per annum from the date of application till payment within a month, otherwise the amount carry interest at the rate of 15% per annum. This apart, counsel's fee of Rs. 2,000.00 has been awarded. Claimants are not satisfied with this award, therefore, this appeal for enhancement.

6. We have heard learned counsel for parties and perused the record of the case.

7. Shri S.L. Kochar, learned counsel for the appellants, submitted that the Claims Tribunal did not include the income of Rs. 8,000.00 to Rs. 9,000.00 per month out of the use of the tractor resulting in less assessment of compensation, therefore, it has to be increased. Another submission is about non-payment of conventional amount towards loss of expectancy of life.

8. Shri Rao, learned counsel for respondent No. 3, the New India Insurance Co., submitted that the Claims Tribunal has awarded compensation on the relevant pleadings and since it is not proved how the deceased was earning by use of the tractor, statement with respect to income by use of tractoris vague.

9. We have considered the evidence on this aspect of the matter.Except for stating that the deceased was earning Rs. 8,000.00 to Rs. 9,000.00 per month by use of the tractor, it is not clearly pointed out how actually the deceased was earning by use of the tractor. In case it was being lent on hire or lease, that fact should have been substantiated in the statement by the claimants. Even other witnesses produced by the claimants have not said anything on this aspect of the matter. With this background, we find that the Claims Tribunal has rightly taken into consideration the income by calculating the total earnings of the deceased in this case for settling the compensation.

10. Consequently, we find that the Tribunal has settled the monthly dependency correctly and after applying multiplier of 18, compensation has been awarded. We find that apart from other items taken into consideration by the Tribunal, no amount has been awarded for loss of expectancy of life. Accordingly, we allow the appeal towards loss of expectancy of life.

11. Result, therefore, is that the appeal is allowed only to the extent that the respondent-Insurance Company will pay Rs. 10,000.00 to the claimants towards loss of expectancy of life with interest at the rate and manner allowed by the Tribunal.

12. Costs on parties.

13. Misc. Appeal partly allowed.