

**Munnibi and Others Vs. Rameshchandra and Others**

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**Court :** Madhya Pradesh

**Decided On :** Apr-24-2001

**Reported in :** 2001(3)MPHT149

**Judge :** Mr. Bhawani Singh, C.J. and ;Mr. A.M. Sapre, J.

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

**Appeal No. :** Misc. Appeal No. 113/2000

**Appellant :** Munnibi and Others

**Respondent :** Rameshchandra and Others

**Advocate for Def. :** Shri Anil Goyal, Adv.

**Advocate for Pet/Ap. :** Shri H.S. Rajpal, Adv.

**Judgement :**

ORDER

Bhawani Singh, C.J.

1. This appeal is directed against the award of Motor Accident Claims Tribunal, Indore in Claim Case No. 61/99, dated 8-10-1999.

2. Claimants are wife, father and three children of the deceased Ibrahim, who died in the motor accident which took place on 31-5-1996 at 6.30 p.m.between Kalarai

and Maachal villages (Indore) when the truck by which he was travelling was hit by offending truck No. MPU 6624. Allegation is that accident took place due to rash and negligent driving of the offending truck otherwise it would not have taken place. The defence of the Insurance Company is that the deceased was an unauthorised passenger in the vehicle and he was not a driver. This defence has been rejected by the Claims Tribunal. It is also found that accident was the result of rash and negligent driving of the offending truck by its driver. Consequently, compensation of Rs. 1,25,200/- has been awarded with interest at the rate of 12 percent from the date of application. This award has been challenged through this appeal.

3. Two submissions are raised by learned counsel for the appellant. First is with respect to the determination of dependency and the second the proper multiplier. Shri Rajpal contends that Claims Tribunal has not assessed the income of deceased properly with the result that dependency has not been properly worked out. The multiplier has not been properly used, therefore, just compensation has not been awarded. With respect to income of deceased, Smt. Munnibi has stated that the deceased was earning Rs. 2,000/- per month, out of which he used to give Rs. 1,000/- to the family. Shri Goyal appearing for the Insurance Company contends that the deceased was working in a sawmill, therefore, his income at the rate of Rs. 40/- per day has been correctly assessed by the Tribunal. In support of Smt. Munnibi, driver of the truck has stated that the deceased used to earn Rs. 2,000/- per month.

4. We think, with this kind of evidence it would be appropriate to assess the income of the deceased at Rs. 15,000/- per annum, after deducting one third towards personal expenditure, the dependency would come to Rs. 10,000/- per annum. So far as age of the deceased is concerned, there being variation in statements on this point, therefore, it would be desirable to fix it at 33 and multiplier of 17 would be applicable in this case. Compensation payable in this case works out to Rs. 1,70,000/-. This apart, Smt. Munnibi would be entitled to consortium of Rs. 10,000/-, all the claimants would be entitled to Rs. 5,000/- for loss of expectancy of life, Rs. 2,000/- for funeral expenses. Thus, total payable compensation comes to Rs. 1,87,000/-, which be paid within 2 months alongwith

interest at the rate of nine percent on the enhanced compensation from the date of application till payment. Claimants shall be paid the compensation in the following terms :--

- (1) Munnibi (wife), 50 percent;
- (2) Imran (son), 14 percent;
- (3) Sabana (daughter), 13 percent;
- (4) Afsana (daughter), 13 percent;
- (5) Kabrudin (father), 10 percent.

5. The compensation falling to the share of minors shall be invested in fixed deposits in the name of their natural guardian Munnibi till they attain majority. The appeal is disposed of in terms aforesaid.

6. Cost on parties.

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