

Angoori Devi and ors. Vs. Man Singh and ors.

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Court : Madhya Pradesh

Decided On : Jan-23-1998

Reported in : 1999ACJ407

Judge : Fakhruddin, J.

Appeal No. : M.A. No. 230 of 1996

Appellant : Angoori Devi and ors.

Respondent : Man Singh and ors.

Advocate for Def. : T.C. Singhal and ; M.P. Agrawal, Advs.

Advocate for Pet/Ap. : Mahesh Haswani, Adv.; R.D. Goyal, Adv.

Disposition : Appeal allowed

Judgement :

Fakhruddin, J.

1. This appeal has been filed by the legal heirs of deceased Satish Chandra Jain, who died in a motor accident on 31.1.1992, for enhancement of the amount of compensation awarded by 5th Additional Motor Accidents Claims Tribunal, Gwalior in Claim Case No. 12 of 1992 on 30.4.1996.

2. The admitted facts are that on 31.1.1992, jeep No. MP 07 M 3741 was being driven by Satish Chandra Jain. In this jeep, besides Satish Chandra, Parmal Singh, Padam Singh and Tulsi Ram were also sitting. It was coming from Morena to Gwalior. While the jeep was so coming, about two kilometres north near police station, Bahodapur, the jeep met with an accident with truck No. DIG 3288. The truck was being driven by Man Singh, respondent No. 1 and was owned by Ram Bahadur Singh, respondent No. 2. It was insured with the Oriental Insurance Co., respondent No. 3. Satish Chandra died on the spot. Others sustained injuries.

3. The Tribunal found that the truck was being driven rashly and negligently. As a result of the injuries sustained, Satish Chandra Jain, driver of the jeep died on the spot. It also held that deceased Satish Chandra was earning Rs. 800 per month. The monthly dependency was assessed at Rs. 650. Applying the multiplier of 5, the Tribunal held that the claimants are entitled to Rs. 39,000 as compensation. The Tribunal also awarded interest at the rate of 12 per cent per annum from the date of filing of claim petition.

4. The counsel for the appellants contended that the award is much on the lower side. Multiplier of 5 has been wrongly applied. He further contended that multiplier of 11 ought to have been applied by the Tribunal. Counsel has relied upon *New India Assurance Co. Ltd. v. Bafatbai* 1996 AC J 336 (MP), in which the multiplier of 10 was applied. He also relied on Section 163A and Second Schedule of the Motor Vehicles Act, 1988. Basing on this Second Schedule, it was argued that the deceased Satish Chandra was found to be 50-55 years of age at the time of his death and as such multiplier of 11 ought to be applied. It was also argued that no funeral expenses and consortium were awarded by the Tribunal.

5. Having considered the facts and the circumstances of the case and after having heard the learned Counsel appearing for the parties and having perused the record, in the opinion of this Court, there is great force in the arguments raised by the counsel appearing for the claimants-appellants. The multiplier in this case, ought to have been 11 and not 5. Accordingly, by applying the multiplier of 11, the amount comes to Rs. 85,800. The claimants are entitled to Rs. 2,000 by way of funeral expenses. The claimant widow is also entitled to consortium which is

assessed at Rs. 5,000. In this way, the claimants are entitled to a total amount of Rs. 92,800 by way of compensation for the death of Satish Chandra Jain.

6. The respondent No. 5 by filing the cross-objections has submitted that it had paid Rs. 12,500 to the claimants by way of no fault liability whereas the liability has been fastened on respondent No. 3. Respondent No. 5 as such prayed for its refund. A perusal of the award indicates that the liability was fastened on respondent No. 3. As such, the cross-objections are allowed.

7. In view of what has been stated above, the appeal as also the cross-objections are allowed to the extent indicated above. It is held that the claimants are entitled to Rs. 92,800 as compensation for the death of Satish Chandra Jain along with interest at the rate of 12 per cent per annum from the date of claim petition. On respondent No. 3 depositing the above amount for being paid to the claimants in the Tribunal, the amount of Rs. 12,500 paid by the respondent No. 5 on account of no fault liability shall be refunded to respondent No. 5. The appellants are entitled to costs of Rs. 1,000 from the respondent No. 3.