

Ruby Yadav and ors. Vs. Rajendra and ors.

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Court : Madhya Pradesh

Decided On : Jan-28-1999

Reported in : 2000ACJ461; 1999(1)MPLJ29

Judge : D.P.S. Chauhan and ;Dipak Misra, JJ.

Appeal No. : M.A. No. 1109 of 1997

Appellant : Ruby Yadav and ors.

Respondent : Rajendra and ors.

Advocate for Def. : Sunil Jain, Adv.

Advocate for Pet/Ap. : Ashok Lalwani, Adv.

Disposition : Appeal allowed

Judgement :

Dipak Misra, J.

1. In this appeal preferred under Section 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act') the claimants-appellants have called in question the legal validity of the award dated 16.5.1997 passed by the First Motor Accidents Claims Tribunal, Murwara, Distt. Katni.

2. The facts giving rise to this appeal are that on 18.3.1994 deceased Dayashankar Yadav was travelling on scooter bearing registration No. CIQ 3796 on National Highway No. 7 and proceeding towards Maihar when he reached at the Check Post of Forest Department near village Kuthla, the offending truck bearing registration No. UP-32A-0611, being rashly and negligently driven by the respondent No. 1, dashed against the scooter, as a result of which he fell down and sustained injuries on his head, and eventually succumbed to the same. The widow of the deceased along with parents filed aforesaid claim petition contending, inter alia, that the deceased was earning Rs. 3,000 per month as he was working as a Branch Manager in M/s. Satna Express Transport Corporation, was aged about 28 years, contributing substantially to the family and hence they were entitled to a compensation of Rs. 15,74,000.

3. The parties adduced evidence before the Claims Tribunal. On considering the material brought on record, the Tribunal came to hold that the monthly income of the deceased was Rs. 1,500 and his contribution to the family was Rs. 1,000. The Tribunal accepted the age of the deceased to be 28 years and applied multiplier of 12. The Tribunal awarded a sum of Rs. 5,000 towards loss of consortium and Rs. 2,000 towards funeral expenses. Thus the Tribunal awarded a total sum of Rs. 1,51,000.

4. Assailing the aforesaid award, it is contended by Mr. Ashok Lalwani, learned counsel appearing for the claimants-appellants that the Tribunal has erred in determining the actual monthly income of the deceased as he was working as a Manager in a transport company and the Tribunal should have accepted the stand of the appellants that the monthly income of the deceased was Rs. 3,000. The learned counsel has also criticised the application of multiplier of 12 by the Tribunal. Mr. Ashok Lalwani has also contended that the sum granted towards consortium is not adequate.

5. Mr. Sunil Jain, the learned counsel appearing for the insurance company has contended that the Tribunal has rightly fixed the monthly income inasmuch as no material was brought on record to determine income of the deceased. However, learned counsel for the insurer has fairly accepted that the multiplier which has

been applied by the Tribunal is low.

6. To appreciate the rival contentions raised at the Bar, we have carefully gone through the award passed by the Tribunal and perused the evidence on record. On a close scrutiny of the materials on record, we find that the analysis made by the Tribunal to arrive at the conclusion in regard to monthly income of the deceased is impeccable and no fault can be found with the same. Admittedly no documentary evidence was produced before the learned Tribunal in support of the income of the deceased. Hence, we are of the considered view that the determination of the income and fixation of monthly contribution by the Tribunal stand close scrutiny. As regards multiplier, the Tribunal has applied multiplier of 12. The deceased was 28 years of age at the time of accident. Applying the Schedule prescribed under Section 163A of the Act, we are of the considered view that multiplier of 18 would be apposite. Hence, the claimants would be entitled to Rs. $1,000 \times 12 \times 18 =$ Rs. 2,16,000. As wife has come up in appeal, award of Rs. 10,000 is granted towards consortium. The claimants also would be entitled to Rs. 5,000 towards loss to the estate and Rs. 2,000 towards funeral expenses. Thus the total compensation for which the claimants are entitled comes to Rs. 2,33,000. The insurance company is directed to pay the enhanced amount of compensation within three months from today with 12 per cent interest from the date of application. If the amount is not paid within the stipulated period, it would carry interest at 15 per cent per annum.

7. With the aforesaid modification in the award, the appeal stands disposed of. There shall be no order as to costs.

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