

Mati Bai Vs. South Eastern Coal Fields Ltd. and ors.

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Court : Madhya Pradesh

Decided On : Sep-02-1999

Reported in : 2001ACJ209; 2000(1)MPLJ63

Judge : D.M. Dharmadhikari and ;Usha Shukla, JJ.

Appeal No. : M.A. No. 676 of 1997

Appellant : Mati Bai

Respondent : South Eastern Coal Fields Ltd. and ors.

Advocate for Def. : N.S. Ruprah, ;N.S. Kale and ;C.V. Rao, Adv.

Advocate for Pet/Ap. : S.K. Agrawal, Adv.

Judgement :

Usha Shukla, J.

1. On 6.11.1979 truck No. MHG 5764 of the South Eastern Coal Fields Ltd. driven by respondent No. 2 Malkit Singh and insured with respondent No. 3, the Oriental Fire & Genl. Ins. Co. Ltd. met with an accident resulting in the death of a number of persons including one Budhwaro Bai, a young girl about 18 years of age. Her father Bhikha Ram filed a claim petition claiming Rs. 1,80,000 as compensation for her death on the allegation that the accident was a result of rash and negligent driving of the truck.

2. The claim was contested by the respondents by denying rashness and negligence of the driver. The South Eastern Coal Fields Ltd. tried to avoid the responsibility by pleading that there were standing orders and instructions to the driver not to pick up any passenger while plying the vehicle of the company, and that the passengers were unauthorised occupants in the vehicle.

3. The pleadings of the insurance company were absolutely vague about the breach of conditions of policy. Nor was any evidence adduced by the insurer at the trial.

4. The learned Claims Tribunal held that the accident occurred due to rash and negligent driving of the truck and also that the insurance company was liable to indemnify the owner under the policy. The Tribunal awarded a sum of Rs. 16,000 only towards loss of affection and company and mental agony and Rs. 2,000 towards the funeral expenses.

5. The claim petition was originally filed by Bhikha Ram, the father of the deceased. But he died during the trial and the name of Mati Bai was substituted in his place. Mati Bai was the younger sister of the deceased and the award was made in her favour. She has now come up in appeal claiming enhancement of compensation.

6. It was argued on behalf of the appellant that Budhwaro Bai was aged only 18 years at the time of the accident and was earning Rs. 300 per month as a labourer. She would have continued to work for the next 50 years or more, and the learned Tribunal ought to have awarded a sum of Rs. 1,80,000 as claimed in the petition.

7. The claim was contested on behalf of the respondents alleging that Budhwaro Bai would have married in due course and would have stopped helping her father Bhikha Ram and her sister Mati Bai financially. The award was, therefore, supported by the respondents as being proper.

8. During the course of arguments before this court it was also contended that Mati Bai was not a legal representative of the deceased and was, therefore, not entitled

to compensation. No such objection appears to have been taken before the trial court.

9. It must be seen that the expression 'legal representative' has not been defined in the Motor Vehicles Act. But there is no reason to give it a restricted meaning as was done under the Fatal Accidents Act, 1855. As observed by their Lordships of the Supreme Court in *Gujarat State Road Trans. Corporation v. Ramanbhai Prabhatbhai* 1987 ACJ 561 (SC), in Indian society brothers, sisters and brother's children, etc., live together and they are dependent on the breadwinner of the family. There is no justification to deny them compensation. Following the aforesaid decision of the Supreme Court, we hold that Mati Bai had an independent right to claim compensation. But in this case, she came to be substituted as an heir to the original claimant Bhikha Ram and in that capacity too is entitled to receive compensation. The objection that she had no locus stand, has no force and is dismissed.

10. The deceased was unmarried and was an earning member having an aged father and a minor sister. She must have been contributing to the family kitty. Thus taking their dependency to be Rs. 200 per month, i.e., Rs. 2,400 per annum and applying a multiplier of 10, the compensation would come to Rs. 24,000. Adding to it Rs. 2,000 as funeral expenses and Rs. 2,500 as loss to estate the total amount comes to Rs. 28,500 which Mati Bai would be entitled to get. Thus appellant is entitled to get a sum of Rs. 28,500 with interest at the rate of 12 per cent per annum from the date of application till realisation.

11. Respondents are directed to deposit the amount less the amount already deposited within a period of two months from the date of supply of certified copy of this order failing which the amount shall carry interest at the rate of 15 per cent per annum. On deposit the amount shall be disbursed to the claimant keeping in mind the well settled guidelines laid down by the Supreme Court.

12. The award of the Tribunal shall be substituted as indicated hereinabove. Counsel's fee Rs. 500, if pre-certified.

