

Leelawati and anr. Vs. General Manager, Madhya Pradesh State Road Trans. Corpn. and ors.

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Court : Madhya Pradesh

Decided On : Jan-19-1999

Reported in : 2001ACJ718

Judge : A.K. Mathur, C.J. and ;Dipak Misra, J.

Appeal No. : M.A. No. 250 of 1992

Appellant : Leelawati and anr.

Respondent : General Manager, Madhya Pradesh State Road Trans. Corpn. and ors.

Advocate for Def. : Yogesh Dhande, Adv.

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

Disposition : Appeal allowed

Judgement :

A.K. Mathur, C.J.

1. This is an appeal directed against the award dated 29.1.92, passed by Motor Accidents Claims Tribunal, Jabalpur, in Motor Accident Claim Case No. 16 of 1989 whereby the Claims Tribunal has awarded a sum of Rs. 37,500 to the appellants

as compensation for the death of the deceased Girish Mishra.

2. It is alleged that on the fateful day, on 7.5.1981 at 11 p.m. a bus bearing No. CPH 8815 met with an accident between Bargi and Sukri village near Hinauta nala on Nagpur-Allahabad Road and as a result of this accident 3 to 4 passengers died and the remaining passengers received injuries. It is alleged that at the time of accident the respondent No. 3, Parasram was driving the said vehicle which belonged to M.P. State Road Transport Corporation. It was further alleged that the bus was being driven in rash and negligent manner by the driver as a result of which it overturned and deceased Girish Mishra succumbed to the injuries on the spot itself. Therefore, Leelawati, the wife of deceased and his minor son, Sunil Kumar Mishra filed the claim petition for grant of compensation before the Motor Accidents Claims Tribunal, Jabalpur.

3. It is alleged that the deceased Girish Mishra was working in Mayur Paper Mills and was earning Rs. 350 per month. He was aged about 25 years. Had the deceased not met with the accident, he would have survived up to the age of 80 to 90 years. Therefore, the claimants-appellants claimed a compensation of Rs. 96,000 towards salary, Rs. 10,000 towards mental torture and Rs. 1,000 towards the damages caused to the goods. Thus, the claimants claimed total compensation of Rs. 1,07,000 on account of the death of deceased Girish Mishra.

4. The claim of claimants-appellants was contested by the respondent Madhya Pradesh State Road Transport Corporation. It is alleged that the vehicle was not driven by the driver in rash and negligent manner but the real cause of accident was sudden failure of brakes of vehicle and there was mud on the side of the road. Therefore, when the driver in order to save the persons who were coming on the road tried to turn the bus to left side of the road, it slipped and overturned as a result of which Girish Mishra died.

5. Having heard the learned counsel for the parties, the learned Claims Tribunal framed as many as ten issues and found that the vehicle was driven in rash and negligent manner as a result of which the deceased Girish Mishra died. It was further held by the Claims Tribunal that the income of the deceased Girish Mishra was Rs. 350 per month and as per evidence of wife of deceased, Leelawati, AW 1

and Mukti Nath, AW 2, the deceased was earning Rs. 350 per month and was contributing a sum of Rs. 200 to his wife for the household expenses. The Claims Tribunal believed this evidence and found that the deceased was contributing a sum of Rs. 200 per month. Therefore, he was contributing Rs. 2,400 per annum. The Tribunal applied a multiplier of 15 and worked out the total compensation to be Rs. 36,000. The Claims Tribunal further awarded a sum of Rs. 1,000 towards mental agony caused to the wife of the deceased and Rs. 500 towards loss of goods caused in the accident. Hence, a total compensation of Rs. 37,500 was awarded by the Claims Tribunal to claimants-appellants. Against this award the claimants-appellants filed this appeal for suitable enhancement of the compensation.

6. We have heard the learned counsel for the parties. It is honest confession of the wife of the deceased, Leelawati that the salary of the deceased was Rs. 350 per month, as a worker in the Mayur Paper Mills and the deceased was giving her Rs. 200 per month for expenses. But, the learned counsel for the appellants submits that the deceased would not have stagnated on getting Rs. 350 per month as his salary throughout his life. Learned counsel for the appellants submitted that the deceased would have got a suitable increase of minimum wages and today, the minimum wages are about Rs. 30 per day of a contingent employee. Therefore, the assessment of the compensation on the basis of the salary of the deceased is less and needs to be suitably enhanced. We are of the opinion that the contention of the learned counsel for the appellants appears to be justified. The amount of Rs. 350 per month which was being drawn by the deceased towards his salary could not have stagnated to that only throughout his life. The annual increase in salary of the deceased would have correspondingly increased and he would have certainly earned a higher wages to live. Therefore, to assess the compensation on the basis of the salary which the deceased was earning at the time of accident could not be a correct approach. In the cases like the present one, it is the duty of the court to see that if the man had not died the increase in his salary or wages with the passage of time was inevitable, this can be taken judicial notice. The fact that these days rate of inflation is going high and the money value is going down, therefore, keeping in view this fact, if deceased had survived he would have earned minimum wages of Rs. 1,500 per month, we assess monthly income of the

deceased to be at least Rs. 1,000. If he had survived, he would have spent Rs. 333 being 1/3rd of the total income on himself per month and the rest amount of about Rs. 670 would have been contributed by him to his family members per month. Therefore, he would have made an annual contribution of Rs. 8,040 to his family members. The deceased Girish Mishra was aged between 25 and 26 years. Therefore, by applying multiplier of 18, the amount to which the appellants are entitled comes to Rs. 1,44,720 (Rupees one lakh forty-four thousand seven hundred and twenty) as compensation for the death of Girish Mishra. They are also entitled to the loss of consortium of Rs. 5,000 and further Rs. 2,000 towards funeral expenses. Thus, the appellants are entitled to a total compensation of Rs. 1,51,720.

7. In result, this appeal is allowed. We hereby enhance the amount of compensation to which the appellants are entitled to Rs. 1,51,720 (Rupees one lakh fifty-one thousand seven hundred and twenty) with interest at the rate of 12 per cent per annum thereon from the date of filing of the claim petition. In case, this amount is not paid to the appellants within six months, they would be entitled to interest on the principal amount at the rate of 15 per cent per annum. There shall be no order as to costs.