

Prema and anr. Vs. Madhya Pradesh State Road Trans. Corpn. and anr.

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Court : Madhya Pradesh

Decided On : Apr-10-2000

Reported in : 2001ACJ674

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

Appeal No. : M.A. No. 116 of 1999

Appellant : Prema and anr.

Respondent : Madhya Pradesh State Road Trans. Corpn. and anr.

Advocate for Def. : H.M. Zelawat, Adv.

Advocate for Pet/Ap. : S.N. Saxena, Adv.

Disposition : Appeal allowed

Judgement :

Bhawani Singh, C.J. and A.M. Sapre, J.

1. This appeal is directed against the award of 5th Member, Motor Accidents Claims Tribunal, Indore ('MACT for short) dated 31.10.1998.

2. Deceased Samir Bist (20) met with an accident on 10.9.1991 at 8.30 p.m. on A.B. Road, Indore near bungalow of Dr. Verma when his scooter No. MP-09-B-6789 was hit by bus No. CPW 6718 owned by M.P. State Road Transport

Corporation (MPSRTC) driven by Ranjitsingh while the bus was coming for going to H.I.G. Colony. The matter was reported at the Police Station, Tukoganj and first information report 652 of 1991 was registered. Deceased was subjected to post-mortem examination, report is available on file. Allegation is that bus was being driven rashly and negligently as a result of which the scooter was hit by it. Deceased fell off the scooter and his head was crushed by the bus; its driver made good his escape. Deceased was taken to the hospital where he died. It is stated that deceased was 20 years old, healthy and handsome young man. At the time of accident he was studying in B.Sc. II year in Holkar Science College, Indore. He was doing computer course and was Senior Under Officer of National Cadet Corps (NCC). He had secured other merit certificates. This apart he possessed pilot course licence and had bright future. As a result of this accident, his family members not only suffered financially but also mentally. Accordingly, a claim for Rs. 44,00,000 has been preferred.

3. Respondents have filed statements in defence although common thread passes through it. In substance, the defence taken is that bus was not involved in this accident. The deceased struck against Kinetic Hero Honda and he died after falling from scooter. He hit the rear portion of the bus but did not come underneath the tyre. Due to the accident crowd collected and looking to the possible violence the driver left the bus and place. Driver is not responsible for the accident, therefore, not liable for the compensation. MACT framed as many as 11 issues in this case. Finding recorded is that accident took place as stated by the claimants. It was due to the rash and negligent driving of the bus that the deceased received the injuries as a result of which he died. The deceased was 20 years old at the time of accident and was a brilliant student and had received pilot's licence. With respect to receiving all financial assistance in case he had lived, finding recorded is that duration for the same could be 12 years and while awarding the compensation the Tribunal has awarded compensation of Rs. 1,55,000 on various counts carrying interest at the rate of 12 per cent from the date of application till the date of realisation. Cost of Rs. 500 has been also awarded.

4. Claimants have filed this appeal challenging the award on the grounds stated in the memorandum of appeal. We have perused the same and other documents on

file apart from hearing the learned counsel from both the sides.

5. Mr. S.N. Saxena, learned counsel for claimants vehemently submits that MACT has not awarded just compensation in this case. Learned counsel contends that background of deceased is completely demonstrated in this case and looking to that the compensation awarded is absolutely meagre and deserves to be enhanced. Learned counsel Mrs. H.M. Zelawat, submits on the other hand that the award is reasonable and deserves to be upheld. Learned counsel also submits that looking to the fact that deceased was not earning anything and his mother was well placed in service, the compensation is reasonable and no case for enhancing this is made out.

6. We have given our consideration to the facts, evidence and submissions made by learned counsel for parties. We take note of certain facts which are absolutely clear in this case. Evidence clearly points out that it was driver of bus who was responsible for this accident. MACT has found on evidence that he was driving the vehicle rashly and negligently and committed the accident. It was the bus which hit the scooter on which deceased was moving. As a result of this accident the deceased fell and died later on in the hospital. We confirm this finding since there is ample evidence on record to support it.

7. Next question is whether the determination of compensation in this case is just as envisaged under the provisions of Motor Vehicles Act, 1988. The court has to settle just compensation. What is just compensation has been matter of decisions by various courts. It is the duty of the court to award just compensation in motor accidents cases to be determined on the facts, evidence and experience. The evidence in this case is that the deceased was 20 years old at the time of accident. He was studying in B.Sc. Part II in Holkar Science College, Indore. He was Senior Under Officer in NCC, a highest post in NCC at Battalion level with great chance of getting into the Army. This apart he possessed pilot's licence with bright prospects of becoming commercial pilot where the salary is very high. He possessed many other certificates. Secondly, there is no doubt about deceased entering into good service. His family background is also very good. His mother is a teacher in Science in St. Raphael's School, Indore while father (dead) was a

retired lecturer from the Motilal Nehru College, Allahabad. His younger brother (claimant No. 2) has joined the Army. His maternal uncle was in Air Force. Maternal grandfather retired as Lt. Col. With this background, it would be unreasonable to fix the yearly income of the deceased at Rs. 22,000 settled by MACT in this case. Reasonably speaking, this amount should be Rs. 36,000 p.a. Looking to the age of the deceased and the claimants the appropriate multiplier in this case should be 15. This way, compensation awardable in this case is Rs. 5,40,000. To this would be added Rs. 2,000 towards funeral expenses taking the total amount of compensation to Rs. 5,42,000 (Rs. five lakh forty-two thousand).

8. Accordingly this appeal is allowed. Respondent Nos. 1 and 2 are directed to pay compensation of Rs. 5,42,000 (five lakh forty-two thousand) to the claimants with interest at the rate of 12 per cent from the date of application till its realisation jointly and severally. Costs of parties.

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