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Court : Madhya Pradesh

Decided On : Nov-17-1999

Reported in : 2001ACJ1630

Judge : B.A. Khan and ;Shambhoo Singh, JJ.

Appeal No. : M.A. No. 149 of 1997

Appellant : Usha

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

Advocate for Def. : Chauhan, Adv.

Advocate for Pet/Ap. : Patwa, Adv.

Disposition : Appeal allowed

Judgement :

Shambhoo Singh, J.

1. Claimant has filed this appeal for enhancement of compensation amount awarded to her vide award dated 7.11.1996 passed by Additional Motor Accidents Claims Tribunal, Jaora, in Claim Case No. 19 of 1995.

2. Claimant's case in brief was that on 7.11.1994 her Ambassador car No. RJ 09-C-0269 driven by her driver Ramesh (AW 2) while going to Neemuch from Ratlam,

near village Manan Kheda was dashed from behind by bus No. MP 09-D-02850 owned by M.P. State Road Transport Corporation and driven by respondent No. 2, as a result of which it got damaged. The appellant filed Claim Case No. 19 of 1995 and sought compensation of Rs. 1,63,105. The respondents resisted the claim and averred that accident occurred due to rash and negligent driving of the car. The Tribunal on appreciation of evidence held that the accident occurred due to rash and negligent driving of the bus by respondent No. 2 and awarded compensation of Rs. 6,000 holding that under Section 147(2) of Motor Vehicles Act more than this amount cannot be awarded for damage to property, if the appellant wanted more compensation she could file civil suit. Hence, this appeal.

3. Mr. Patwa, learned counsel for the appellant, has submitted that the Tribunal committed grave error in applying Section 147(2) of the Motor Vehicles Act. This Section relates to liability of insurance company. In this case, the offending bus was not insured and the appellant was not claiming any amount from insurance company. The respondent Corporation was liable to pay the entire amount of compensation for the damage caused to the appellant's car. Mr. Chauhan, learned counsel for the respondents, supported the impugned award.

4. We considered the arguments advanced by counsel for both sides and also perused the record. We agree with Mr. Patwa, learned counsel for the appellant that the Tribunal committed grave error in applying Section 147(2) of the Motor Vehicles Act and holding that no amount more than Rs. 6,000 could be awarded for damage caused to the property. Section 147 of the Motor Vehicles Act envisages requirement of insurance policy and provides for limited liability. The bus was not insured and the appellant did not claim any amount from the insurance company, therefore, this Section does not apply and the Corporation was liable to pay the entire amount of compensation for the damage caused to the car. The appellant claimed compensation of Rs. 1,63,105. Dr. Usha Verma deposed that though car was of 1968 model and she had purchased it for Rs. 45,000-Rs. 50,000 but she had spent Rs. 1,00,000 on its repairs and renovation. However, she did not state as to how much loss was caused to her car due to this accident. Driver Ramesh deposed that due to accident, this car's headlights and dickey were pressed and engine was uprooted and the wheels were broken. He

also did not state as to how much loss was caused to the car. He, however, stated in the cross-examination that the repair would require expenditure of Rs. 25,000-Rs. 30,000. The appellant examined Sudhir Nema, surveyor, who inspected the car and submitted his report Exh. P-5. He also did not make any statement about the loss caused by this accident. Looking to the report Exh. P-5 prepared by the surveyor and the photographs of the car, in our opinion, the damage caused to the car can be assessed at Rs. 25,000 as driver Ramesh stated that repair of the car would require expenditure of Rs. 25,000.

5. As stated earlier, the Tribunal committed error in awarding only Rs. 6,000 as compensation for the damage caused to the car, we allow the appeal and modify the impugned award and direct that respondent Corporation shall pay Rs. 25,000 to the appellant with interest at the rate of 12 per cent per annum from the date of filing of the claim application (after adjusting the amount already deposited) within two months from the date of receipt of copy of this judgment. No order as to costs.

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