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Court : Madhya Pradesh

Decided On : Mar-30-2000

Reported in : 2002ACJ102

Judge : Bhawani Singh, C.J. and ;A.K. Mishra, J.

Appeal No. : M.A. No. 257 of 1996

Appellant : Kushal and anr.

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

Advocate for Pet/Ap. : Mr. Sanjay K. Agrawal

Disposition : Appeal allowed

Judgement :

Bhawani Singh, C.J.

1. This appeal challenges the award dated 17.1.1996 of the IV Additional Motor Accidents Claims Tribunal, Mungeli in Claim Case No. 7 of 1994.

2. On 1.4.1994, deceased Ram Kumar, aged 30, was crossing the road for going towards Daupara Mungeli Booking Office for getting ticket. At that time, the bus bearing No. MKH 7551 belonging to the respondent M.P. State Road Transport Corporation driven by Raghuraj Singh, driver, in a rash and negligent manner had struck against the deceased Ram Kumar. As a result, Ram Kumar died on the

spot. The matter was reported to the police and first information report No. 84 of 1994 was registered and challan filed for offence under Section 304A, Indian Penal Code.

3. At the time of accident, deceased was 30 years old, his parents were dependent on him, he was married, so also his wife. He was doing the business of repair of radios and televisions and was earning Rs. 100 per day and on account of death of Ram Kumar, the claimants have been rendered without livelihood. Father of the deceased is 60 years old while mother is 55 and widow Ahilyabai is 19. It was contended that due to the death of Ram Kumar, the family has sustained big loss; therefore, they are claiming Rs. 1,00,000 for pain and suffering, Rs. 10,000 for funeral expenses and Rs. 6,10,000 for loss of income taking to total of Rs. 7,20,000.

4. The claim has been opposed and it is stated in defence that the claimants were not dependent upon the deceased, he was not earning Rs. 100 per day, he died due to his negligence; driver was driving the vehicle carefully, medical expenditure of Rs. 10,000 is not correct and that the deceased could not earn for thirty years. The Tribunal held that the bus in question was being driven rashly and negligently and it hit the deceased resulting into his death. Accordingly, the Tribunal worked out the total compensation of Rs. 1,55,000 and passed the award of compensation with interest at the rate of 12 per cent per annum from the date of award. Being aggrieved by the said award, the present appeal is filed.

5. Learned counsel Mr. Sanjay K. Agrawal, appearing for the appellants submits that the award does not pay just compensation to the claimants and, therefore, it is liable to be modified and the amount of compensation increased. Learned counsel submits that dependency has not been correctly arrived at nor proper multiplier has been applied. It is also submitted that payment of interest from the date of award is not correct and it ought to have been given from the date of application till the date of payment. These submissions have been repudiated by Mr. Yogesh Dhande, learned Counsel appearing for the respondent Nos. 1 and 2. Learned counsel submits that the Tribunal has assessed just compensation after application of proper multiplier. The award is, therefore, correct and does not

warrant any modification.

6. After considering the respective submissions of the learned Counsel for parties, we are of the opinion that the case has not been correctly decided by the Tribunal. Evidence shows that the deceased was earning Rs. 100 per day. Out of this, he was spending a sum of Rs. 50 on his family. This evidence has not been rebutted by the other side. Therefore, dependency has to be taken as Rs. 50 per day: Rs. 1,500 per month: Rs. 18,000 per annum. In this case reasonable multiplier should be 17. Thus the amount of compensation comes to Rs. 3,06,000 (Rs. 1,500.00 x 12 x 17). In addition, the claimants shall be entitled to Rs. 2,000 towards funeral expenses. Ahilyabai is the widow of deceased. At the time of accident, she was 19 years old. At this young age, she lost her husband due to negligence of the respondent No. 2. She is deprived of the company of her husband. Consequently she is entitled to the consortium and, therefore, she is entitled to a sum of Rs. 5,000 under this head, taking the total compensation to Rs. 3,13,000 (Rupees three lakh thirteen thousand only) payable with interest at the rate of 7 per cent per annum from the date of application till the date of payment. The amount of compensation awarded is ordered to be paid in the following ratio:

(i) Fifty per cent of Rs. 3,08,000 along with interest to: (1) Kushal s/o Chhedi Satnami and (2) Daiyabai w/o Kushal Satnami, appellants.

(ii) Remaining fifty per cent as well as the sum of Rs. 5,000 awarded under the head of consortium with interest to the respondent No. 3 Ahilyabai, widow of Ram Kumar.

The aforesaid amount of compensation shall be paid within a period of two months from today, otherwise it will carry interest at the rate of 10 per cent per annum from the date of accident till the date of payment.

7. Appeal is accordingly allowed, leaving parties to bear their own costs.