

**Nanda and ors. Vs. Chottulal and ors.**

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**Court :** Madhya Pradesh

**Decided On :** Jan-18-2005

**Reported in :** III(2006)ACC124; 2006ACJ2122

**Judge :** R.V. Raveendran, C.J. and ;Shantanu S. Kemkar, JJ.

**Appeal No. :** M.A. No. 1530 of 2000

**Appellant :** Nanda and ors.

**Respondent :** Chottulal and ors.

**Advocate for Def. :** S.V. Dandwate, Adv.

**Advocate for Pet/Ap. :** A.K. Tiwari, Adv.

**Judgement :**

R.V. Raveendran, C.J.

1. This appeal is filed against the judgment and award dated 17.7.2000 passed by the Motor Accidents Claims Tribunal, Rajgarh (Biaora) in Claim Case No. 18 of 1998.

2. Appellants, who were the claimants in the said claim petition, are respectively the widow, minor son and aged parents of one Santosh Kumar Mithal who died in a motor accident on 20.11.1995 involving vehicle No. CIC 9698. Deepchand, respondent No. 2, is the owner, Chottulal, respondent No. 1, is the driver and New

India Assurance Co. Ltd. respondent No. 3, is the insurer of the said vehicle. Appellants claimed compensation of Rs. 38,25,300. Tribunal, after appreciating the evidence, awarded a compensation of Rs. 5,00,000 with interest at 12 per cent per annum from the date of petition. Appellants have filed this appeal contending that the compensation awarded is inadequate. Therefore, the only question that arises for consideration is about the adequacy of compensation.

3. The Claims Tribunal found that the deceased was aged 32 years at the time of death and was working as Assistant Lecturer in Government College, Rajgarh and his salary was Rs. 7,100 per month. After making deductions on account of his personal expenditure and living expenses it arrived at the contribution to the family as Rs. 4,200 per month. Thus the dependency was determined as Rs. 50,400 per annum. By applying the multiplier of 10, it arrived at total loss of dependency at Rs. 5,04,000. Rounding off the same, the award was made for Rs. 5,00,000.

4. As rightly contended by appellants, there are errors in calculating the loss of dependency and in selecting the multiplier. The salary was Rs. 7,100 per month. If a sum of Rs. 1,100 is deducted towards the income tax, professional tax and personal out of pocket expenses of the deceased, the net monthly income would have been Rs. 6,000. Having regard to the fact that the family of the deceased consisted of himself, his wife, minor son and aged parents, it is appropriate to deduct th and not 1/3rd towards the living expenses of the deceased. Accordingly the contribution to the family would be Rs. 4,500 per month or Rs. 54,000 per annum. As deceased was aged 32 years, the applicable multiplier is 17. Therefore, the total loss of dependency is Rs. 54,000 x 17 = Rs. 9,18,000. To this, we add Rs. 5,000 for loss of consortium, Rs. 5,000 for loss to estate and Rs. 2,000 as funeral expenses. Thus, total compensation is determined at Rs. 9,30,000.

5. We, accordingly, allow the appeal in part and increase compensation from Rs. 5,00,000 to Rs. 9,30,000 (rupees nine lakh thirty thousand only). The rate of interest, in regard to Rs. 5,00,000 awarded by Tribunal, shall remain unaltered. However, the increased sum of Rs. 4,30,000 shall carry interest only at the rate of 6 per cent per annum from the date of petition till deposit/payment. Parties to bear their respective costs.

6. The Tribunal has apportioned the compensation at 40 per cent for the widow and 20 per cent each for the minor son, mother and father. In the interest of justice, we modify it as 50 per cent for the widow, 20 per cent each for minor son and the mother and 10 per cent for the father. Entire amount falling to the share of the minor appellant and 75 per cent of the amount falling to the share of the widow and the mother shall be kept in fixed deposit with a nationalized bank for a term of five years to be renewed for further five years, with liberty to draw interest. The parties to bear respective costs.

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