

Minaxi and ors. Vs. Deepesh Kumar and ors.

Minaxi and ors. Vs. Deepesh Kumar and ors.

SooperKanoon Citation : sooperkanoon.com/511430

Court : Madhya Pradesh

Decided On : Sep-14-2005

Reported in : I(2006)ACC125; 2007ACJ92

Judge : Ashok Kumar Tiwari, J.

Appellant : Minaxi and ors.

Respondent : Deepesh Kumar and ors.

Disposition : Appeal allowed

Judgement :

Ashok Kumar Tiwari, J.

1. This appeal has been filed by the claimants-appellants under Section 173 of Motor Vehicles Act, 1988 (in short, 'the Act'), for enhancement of the sum awarded to them vide award dated 19.3.2001, passed by learned First Additional Member, Motor Accidents Claims Tribunal, Dhar (MP) in Claim Case No. 43 of 2000.

2. On 8.7.1997 the deceased Govind was driving the passenger bus of Aashish Travels, bearing registration No. MP 09-S 1080. The said bus used to ply between Manawar and Indore and at the time of accident it was going towards Indore. The said bus was being driven by deceased Govind as the driver of the bus. He was driving the bus quite cautiously at a controlled speed, observing the relevant traffic

rules. In between Marol and Bondwara a mini truck bearing registration No. MP 09-KA 5634 driven by its driver rashly and negligently dashed violently against the aforesaid bus. Due to the accident deceased Govind sustained injuries on head, abdomen and legs. He was taken to Bhoj Hospital, Dhar in the injured condition where he was examined and given treatment and due to severe injuries he was sent to Mittal Nursing Home where he was admitted in ICU, but he could not recover and ultimately succumbed to injuries on 13.7.1997. About 27 passengers of the bus sustained grievous injuries in the accident and out of them 3 died.

3. Alleging the aforesaid facts the legal representatives of the deceased preferred a claim petition, claiming a compensation to the tune of Rs. 10,00,000 for the loss suffered by them under different heads, due to the death of deceased Govind in the aforesaid accident. The respondents denied the claim of the claimants. However, the learned Tribunal, after trying the issues, allowed the claim only in part and awarded a sum of Rs. 3,82,000 along with interest at the rate of 9 per cent per annum from the date of application till realisation with the costs of the litigation.

4. Feeling the quantum of award insufficient the claimants have preferred this appeal against the impugned award under Section 173 of the Act. The only question to be considered in this appeal is whether the appellants are entitled to get any more sum as compensation for the death of deceased Govind.

5. The learned Tribunal has found that the income of the deceased was Rs. 3,000 p.m. This finding of the Tribunal is based on proper appreciation of the evidence. There is hardly any ground to interfere with this finding of the learned Tribunal. The learned Tribunal, after deducting 1/3rd amount which the deceased might have been spending on himself, has assessed the dependency at Rs. 24,000 per annum. This assessment of the learned Tribunal is also legal and correct. However, learned Tribunal has erred in applying the multiplier of 14 for ascertaining the financial loss caused to appellants. Learned Tribunal has mentioned in para 24 of the award that the deceased Govind was aged in between 30 and 35 years. According to the Schedule under Section 163A of the Act, for the age group of 30-35 years the multiplier of 17 is prescribed for evaluating

compensation for third party in fatal accident. Multiplier prescribed in this Schedule, might be followed in the cases under Section 166 of the Act. In the present case not only the parents and the sister of the deceased, but his widow and the children are also claiming compensation. Hence, in the facts and circumstances of the case and looking to the age group of the deceased the proper multiplier to be adopted shall be 17 instead of 14 which has been applied by the learned Tribunal.

6. On multiplying the dependency figure of Rs. 24,000 by 17 the financial loss comes at Rs. 4,08,000. Learned Tribunal has allowed Rs. 20,000 towards medical expenses incurred in the treatment of the deceased. This amount shall also be allowed as compensation payable to appellants. It will also be proper to add a lump sum amount of Rs. 22,000 for taking care of the amount of compensation awardable under different conventional heads, such as funeral expenses, loss of consortium, loss of love and affection, loss to estate, etc. Thus, a total sum of Rs. 4,50,000 will be a just, proper and adequate sum awardable as compensation to the appellants.

7. Consequently, this appeal is allowed in part. The impugned award is modified by enhancing the total amount awardable to the appellants from Rs. 3,82,000 to Rs. 4,50,000. As such, now appellants shall be entitled for the total sum of Rs. 4,50,000 from the respondents jointly and severally. The rate of interest in regard to Rs. 3,82,000 awarded by Tribunal remains unaltered. However, the increased sum of Rs. 68,000 would carry interest at the rate of 6 per cent per annum from the date of application till realisation. The amount of compensation shall be payable to appellants in the same proportion and in the manner as directed by the learned Tribunal in the impugned award. The respondents shall also bear the costs of appellants throughout. Counsel's fee Rs. 1,000, if certified.