

Deobala and ors. Vs. Padwal Janaji and ors.

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Court : Madhya Pradesh

Decided On : Nov-09-2005

Reported in : I(2006)ACC50; 2007ACJ111

Judge : Ashok Kumar Tiwari, J.

Appellant : Deobala and ors.

Respondent : Padwal Janaji and ors.

Judgement :

Ashok Kumar Tiwari, J.

1. This appeal, under Section 173 of Motor Vehicles Act, has been filed by the appellants-claimants for enhancement of the sum awarded to them vide award dated 23.8.2001, passed by the learned Third Additional Member, Motor Accidents Claims Tribunal, Dewas (MP) in Claim Case No. 121 of 1998.

2. The deceased Amarsingh, who was working in Sri Ummed Higher Secondary School, Jodhpur (Rajasthan) had visited Dewas. On 10.6.1998, at about 4.30 p.m., after having 'darshan of Deviji' while he was returning back, a Maruti car bearing registration No. MP 09-HA 2021, owned by respondent No. 2 and driven rashly and negligently by respondent No. 1 dashed against him and deceased Amarsingh sustained severe injuries. At the relevant point of time the said car was insured with the respondent No. 3. The deceased was taken to District Hospital, Dewas

and then was referred to Indore for further treatment. At Indore, during his treatment at Gokuldas Hospital, on 15.6.1998, he passed away. The legal representatives of the deceased preferred a claim petition for awarding them a total sum of Rs. 24,71,000 as compensation for the loss caused to them due to the death of the deceased Amarsingh, claiming themselves to be dependants of the deceased. By the impugned award, the learned Tribunal has accepted the claim of the claimants-appellants in part only and awarded a total sum of Rs. 6,44,573 in favour of the claimants-appellants against the respondents. Feeling the amount of compensation inadequate the claimants-appellants have preferred this appeal under Section 173 of the Motor Vehicles Act for enhancement.

3. The only question that arises for consideration in this appeal is whether any case is made out for enhancement in the compensation than what has been awarded by the Tribunal and, if so, to what extent? After trial learned Tribunal found that the income of the deceased was Rs. 69,600 per annum and after deducting 1/3rd amount for his personal expenditure it assessed the dependency of the appellants at Rs. 46,400 per annum. This finding of the learned Tribunal cannot be disturbed and deserves to be affirmed as the same is quite reasonable, just and is based on proper appreciation of evidence on record. However, the learned Tribunal has assessed loss of dependency at Rs. 6,03,200, after applying multiplier of 13. The multiplier of 13, as selected by the Tribunal, appears to be on lower side.

4. The age of the deceased has been found to be 42 years. According to the Second Schedule to Section 163A of the Motor Vehicles Act the multiplier for the age group between 40 and 45 years is 15. Therefore, the proper multiplier which should have been applied is 15 instead of 13. The deceased was a married person and appellant Nos. 2 and 3 are his minor sons while appellant No. 1 is his widow and appellant No. 4 is his mother. In such a situation the age of the deceased only should have been considered for selecting the proper multiplier. According to the age group of the deceased the proper multiplier to be applied is 15 and on applying this multiplier the loss of dependency comes to Rs. 6,96,000, which is the compensation awardable under the head loss of dependency. Adding to this Rs. 41,373 already awarded by the learned Tribunal towards other heads like

expenses on treatment of the deceased, loss of consortium, funeral expenses, etc., the total amount of compensation comes to Rs. 7,37,373.

5. Consequently, this appeal is partly allowed. The award of Claims Tribunal is modified to the extent indicated above and it is enhanced from Rs. 6,44,573 to Rs. 7,37,373. The enhanced amount shall carry interest at the rate of 6 per cent per annum from the date of application till realisation. The enhanced amount shall be distributed equally amongst the appellants in the manner directed by the Tribunal in the impugned award. Costs of appellants throughout shall be borne by respondents. Counsel's fee Rs. 1,500, if certified.

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