

Sandhya and ors. Vs. Navi Mohammad and ors.

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Court : Madhya Pradesh

Decided On : Dec-12-2002

Reported in : 2004ACJ1751

Judge : R.B. Dixit and ;Chandresh Bhushan, JJ.

Acts : [Motor Vehicles Act, 1988](#) - Sections 166(1)

Appeal No. : M.A. No. 128 of 1999

Appellant : Sandhya and ors.

Respondent : Navi Mohammad and ors.

Advocate for Def. : M.P. Agrawal, Adv.

Advocate for Pet/Ap. : R.P. Gupta, Adv.

Judgement :

R.B. Dixit, J.

1. The learned First Additional Claims Tribunal, Morena in Claim Case No. 136 of 1998 by impugned award dated 17.9.1998, has awarded Rs. 4,16,976, as compensation for the death of the deceased Kamta Prasad, who was L.I.C. agent and was aged 28 years at the time of accident.

2. The only contention of the learned counsel of the appellants is that the learned Claims Tribunal has erred in calculating the amount of expenses incurred by the deceased in his capacity as L.I.C. agent. It is urged that there is no evidence regarding any of his expenses to the extent of Rs. 6,600 and the amount of incentive as Rs. 12,000 of policyholders. However, the learned counsel of the respondent No. 3, on the other hand has contended that the expense of Rs. 100 per day was admitted by the wife of the deceased. The learned Claims Tribunal has calculated this expense only for 200 days in a year. In our opinion, since there is no evidence in rebuttal insofar as expense of Rs. 100 per day by the deceased and there is no ground to calculate only for 200 days in a year, this expenditure must have been calculated for 300 days in a year, which are the normal working days of the insurance company. In our opinion, office expense and the amount of incentive distributed to the policyholders cannot be calculated as there is no evidence on record regarding this expense. Thus, total expense at the rate of Rs. 100 per day for 300 days in a year comes to Rs. 30,000 per year. After deducting this amount from the admitted net income of the deceased as Rs. 71,476, his income comes to Rs. 41,476, which can be rounded up to Rs. 42,000. After deducting 1/3rd expenditure on self from Rs. 42,000, the amount would come to Rs. 28,000 and after multiplying by 18, it will come to Rs. 5,04,000, adding to it Rs. 5,000 as loss of consortium, Rs. 2,000 as funeral expenses and Rs. 2,500 towards loss to estate; the total amount comes to Rs. 5,13,500.

3. Insofar as the amount of interest is concerned, it is to be calculated at the rate of 9 per cent per annum from the date of application on the enhanced amount of Rs. 96,524, including the interest as calculated by the Tribunal on the remaining amount.

4. The appeal is therefore partly allowed and it is directed that the appellant Nos. 1, 2, 3 and 5, namely, Sandhya, wife of the deceased, Rajeet, Kirti and Munni Devi are entitled to get total amount of compensation of Rs. 5,13,500 and interest at the rate as indicated hereinabove. It is further directed that the enhanced amount along with interest at the rate of 9 per cent per annum from the date of application shall be paid in cash to the appellant Nos. 1, 2, 3 and 5. Regarding payment of the remaining amount, the order of the learned Tribunal shall be followed.

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