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Court : Madhya Pradesh

Decided On : Aug-08-2005

Reported in : 2007ACJ1577

Judge : Arun Mishra and ;U.C. Maheshwari, JJ.

Appellant : Deepa Singh and ors.

Respondent : Madhya Pradesh State Road Transport Corporation and ors.

Disposition : Appeal allowed

Judgement :

Arun Mishra, J.

1. These appeals have been preferred against the award dated 12.9.2002, passed by the Fifth Additional Motor Accidents Claims Tribunal, Rewa, in Claim Case No. 8 of 2000. Claimants have preferred M.A. No. 2273 of 2002 for enhancement of compensation, whereas the M.P.S.R.T.C. has filed M.A. No. 2331 of 2003 as insurer of the vehicle, United India Insurance Co. Ltd. has not been saddled with the liability to make the payment of compensation.

2. Claimants preferred claim petition on account of death of Ravendra Bahadur Singh in an accident dated 17.5.2000. The deceased was travelling in bus (MP 22-B 7238) owned by the erstwhile M.P.S.R.T.C. The said bus met with an accident and had collided with truck No. KA 01-8588. The passengers travelling in the bus sustained injuries. The deceased, Ravendra Bahadur Singh also sustained severe head injury and was referred to the hospital at Jabalpur. He succumbed to the injuries on 21.5.2000. The deceased was teacher in Government Higher Secondary School. He was drawing salary of Rs. 9,266 per month as apparent from the salary certificate, Exh. P10. His age was 42 years. The bus was insured with United India Insurance Co. Ltd. It was alleged by the claimants that compensation be awarded as against the driver, owner and insurer of both the vehicles involved in the accident.

3. The M.P.S.R.T.C. in reply contended that the deceased was not travelling as passenger in the said bus. The vehicle in question was not involved in the accident. Vehicle (MP 22-B 7238) is insured with United India Insurance Co. Ltd. The bus was not driven in a rash and negligent manner by the driver.

4. United India Insurance Co. Ltd. in reply contended that even if it is proved that the bus was insured, the driver was not holding a valid and effective driving licence, hence, insurer cannot be saddled with the liability to make payment of compensation. Income of the deceased has been shown to be excessive. Hence, claim petition be dismissed.

5. National Insurance Co. Ltd. in reply contended that the driver of the truck was not negligent. Even if the insurance is proved, liability is not that of the insurer of the truck.

6. The Claims Tribunal has found that the accident was caused as the driver of the bus drove the bus rashly and negligently. There was no negligence on the part of the driver of the truck. The compensation of Rs. 8,86,000 has been awarded applying the multiplier of 14. The income of the deceased for the purpose of computation of compensation has been taken at Rs. 7,146. The insurer of the bus has been exonerated from liability to make payment of compensation on the ground that the accident took place on 17.5.2000, vehicle was insured from

11.5.1999 to 10.5.2000. The accident took place seven days after lapse of the policy. Policy was not subsisting, hence insurance company is not liable to make payment of compensation.

7. Mr. Akhil Singh, the learned Counsel appearing on behalf of the claimants has submitted that the deceased was drawing salary of Rs. 9,266 per month. The Claims Tribunal has erred in law in taking the salary of Rs. 7,146 per month for the purpose of computation of compensation. Appropriate multiplier at the age of 42 years is 15. Learned Tribunal has applied the multiplier of 14. Thus, inadequate compensation has been awarded, same be enhanced suitably.

8. Mr. Shobhit Aditya and Mr. Saurav Tiwari, learned Counsel for M.P.S.R.T.C. have submitted that the insurer has been illegally exonerated by misreading the policy. It was issued on 11.6.1999 and was valid up to 10.6.2000, whereas the accident took place on 17.5.2000. Hence, the risk is covered.

9. Mr. K.L. Raj with Mr. Suresh Raj, learned Counsel appearing on behalf of United India Insurance Co. Ltd., has submitted that though the policy was issued on 11.6.1999 and valid till 10.6.2000, but the policy did not relate to the vehicle in question. There is difference in chassis number as mentioned in the policy and in registration particulars. Thus, for different reason insurer cannot be saddled with the liability to make payment of compensation.

10. Mr. Sanjay Agrawal with Mr. Shravan Tiwari, the learned Counsel appearing on behalf of National Insurance Co. Ltd., has submitted that in view of the finding recorded by the Claims Tribunal, no liability has been fastened and finding has not been assailed in this appeal. Hence, there is no liability on the part of National Insurance Co. Ltd.

11. First, we come to the question of quantum of compensation. It is clear that the deceased was teacher in Government Higher Secondary School. As is apparent from his payslip, he was receiving a sum of Rs. 9,266 per month as salary. Substantive pay of Rs. 6,900, dearness allowance was Rs. 2,208, personal allowance was Rs. 93 and the HR was Rs. 65. We take for the purpose of computation of salary of the deceased, the figures of Rs. 6,900 and Rs. 2,208,

total salary comes to Rs. 9,108 per month. In our opinion, the Claims Tribunal has erred in law in deducting the amount of GPF and GIS of Rs. 920, this amount was towards the savings of the deceased. GPF and GIS are refundable along with interest is not in dispute. The Claims Tribunal has also erred in deducting the expenditure which the deceased used to incur for payment of rent of the house which he had hired, for the purpose of computation of salary for determining the compensation, such expenditure cannot be reduced from the salary. Thus, the salary has to be taken as substantive pay plus dearness allowance, which are taken in this case, which is Rs. 9,108, deducting 1/3rd amount towards self expenditure of the deceased, which he would have incurred had he been alive, loss of monthly dependency comes to Rs. 6,070, annual Rs. 6,070 x 12 = Rs. 72,840. The age of the deceased was 42 years, is not in dispute. We apply the multiplier of 15 as provided in the Second Schedule to the Motor Vehicles Act, 1988, as widow and children are the claimants. Thus, compensation on account of loss of dependency comes to Rs. 72,840 x 15 = Rs. 10,92,600. In addition, claimants are entitled to Rs. 2,000 on account of funeral expenses, Rs. 2,500 for loss to the estate and Rs. 5,000 on account of loss of expectancy of life. Widow is also entitled to Rs. 5,000 on account of loss of consortium. We affirm the amount of Rs. 10,000 towards medical expenditure as deceased was treated for about five days. Thus, the total compensation comes to Rs. 11,17,100 (rupees eleven lakh seventeen thousand and one hundred). The enhanced amount of compensation to carry interest at the rate of 6 per cent per annum from the date of filing of the claim petition.

12. Coming to the question of liability of the insurer: It is admitted that the policy was issued on 11.6.1999. It was valid up to 10.6.2000. The accident took place on 17.5.2000 before the expiry of insurance policy. Photocopy of the cover note is on record. It is clear that there is a mention of chassis No. 28015. On the policy also the chassis number has been mentioned as 28015. Merely non-mention of series is not material. Series was AO. Chassis number was found to be same and admittedly risk was covered on the date of accident. A fair copy of cover note was produced by the learned Counsel appearing on behalf of United India Insurance Co. Ltd., which is placed on record of the case. Thus, we find that Claims Tribunal has erred in law in not reading the policy correctly. It was issued on 11.6.1999 and

expired in the midnight of 10.6.2000. Thus, the risk was covered in the policy. Thus, the liability is held to be joint and several of the M.P.S.R.T.C. and the insurer to make the payment of compensation.

13. The appeals are allowed to the aforesaid extent. Parties to bear their own costs as incurred.

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