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Sugarabai Vs. Tata International Export Ltd. and ors.

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Court : Madhya Pradesh

Decided On : Jul-22-2003

Reported in : I(2004)ACC468; 2004ACJ776

Judge : Deepak Verma and ;S.K. Seth, JJ.

Appeal No. : M.A. No. 1355 of 2002

Appellant : Sugarabai

Respondent : Tata International Export Ltd. and ors.

Advocate for Def. : Anil Goel, Adv.

Advocate for Pet/Ap. : Manish Jain, Adv.

Judgement :

Deepak Verma and S.K. Seth, JJ.

1. The only question which has been raised before us in appeal is whether the amount of compensation awarded to the appellant by the Additional Motor Accidents Claims Tribunal, Ujjain in Claim Case No. 59 of 2001, is just and proper or not.

2. The Claims Tribunal awarded a sum of Rs. 67,000 to the appellant No. 1 only on account of her husband's death in a road accident due to rash and negligent

driving of respondent No. 2. At the time of the accident the vehicle was owned by respondent No. 1 and was insured with respondent No. 3. The finding of the Tribunal with regards to the negligent driving has not been assailed. The same is, therefore, confirmed.

3. The learned counsel appearing for the appellant submitted that the Tribunal has wrongly assessed the income of the deceased on the lower side. Mr. Goel, the learned counsel for the respondent No. 3, on the other hand, supported the award and submitted that the income was rightly assessed.

4. After going through the evidence we find that the deceased was a self-employed person and was earning Rs. 100 per day. Obviously, the deceased could not have worked continuously for 30 days in a month, therefore, his monthly income is assessed at Rs. 2,500. The annual income of the deceased, therefore, will come to Rs. 30,000. After deducting the conventional 1/3rd amount, the dependency of the appellant No. 1 comes to Rs. 20,000. In the post-mortem report the age of the deceased is mentioned as 55 years, whereas in the claim petition it was mentioned as 50 years. The appellant No. 1 has also deposed before the court that the age of the deceased was 50 years. The Tribunal on the basis of requisition sent by the police for the post-mortem has held that the age of the deceased is 60 years, ignoring the age as stated by the appellant No. 1 or as recorded by the doctor in the post-mortem report. Keeping in view the deposition of appellant No. 1 and the age as recorded by the doctor in the post-mortem report, in our opinion, the deceased must have been in the age group of 50 to 55 years. Looking to the age of the deceased at the time of the accident we, therefore, apply the multiplier of 11 to work out the future loss of dependency which comes to Rs. 2,20,000. To this we add another sum of Rs. 30,000 towards other heads like loss of consortium, love and affection, company, funeral expenses, etc. Thus the total compensation appellant No. 1 is entitled to receive jointly and severally comes to Rs. 2,50,000. The enhanced amount shall carry interest at 6 per cent per annum from the date of application till it is actually paid.

5. The appeal is, thus, partly allowed. The impugned award is modified to the extent indicated above. The respondent No. 3 shall bear the costs throughout.

Counsel's fee Rs. 1,000, if certified.

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