

Jaynarayan and ors. Vs. Ashok Kumar Singhal and ors.

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Court : Madhya Pradesh

Decided On : Jan-12-2007

Reported in : 2008ACJ2346

Judge : Rajendra Menon, J.

Appellant : Jaynarayan and ors.

Respondent : Ashok Kumar Singhal and ors.

Advocate for Pet/Ap. : Mr. B.D. Verma

Disposition : Appeal allowed

Judgement :

Rajendra Menon, J.

1. This is claimants appeal under Section 173 of Motor Vehicles Act assailing the award dated 21.10.2002 passed by Fourth Additional Motor Accidents Claims Tribunal, Morena in Claim Case No. 158 of 2000.

2. Claimants herein are the parents of the deceased one Rajesh alias Bablu, it is stated that deceased Rajesh on 10.2.2000 in the night at about 10.45 was travelling in Maruti car bearing No. MP 06-D 233 and was going from Morena to Gwalior. In the said Maruti car apart from the deceased three other friends of the deceased were travelling. Car was driven by Rajesh and when the car reached a

place near Shrikrishna Hotel in A.B. Road and when the car was going in left hand side and was being parked a dumper bearing No. MP 20-G 3274 came from the opposite direction and dashed against Maruti car, as a result Rajesh and his friend one Satish died in the accident. Maruti car was driven by Rajesh and was insured by National Insurance Co. Ltd., respondent No. 2. Dumper was insured by New India Assurance Co. Ltd., respondent No. 5.

3. It was stated by the claimants that they are parents and brothers of deceased Rajesh. Rajesh was student of LL.B. Part II in M.L.B. College, Gwalior. He was a qualified computer expert having passed certain diploma courses in computer technology and was working as computer and graphics designer with Alok Printing Press, Morena and was earning salary of Rs. 4,000 per month. Accordingly compensation was claimed. After evaluating the evidence and material that have come on record compensation of Rs. 1,22,000 is awarded. This award is challenged in this appeal and Mr. B.D. Verma, counsel for appellants inviting my attention to the evidence available on record particularly statements of Jaynarayan, PW 2, father of Rajesh and Alok Kumar Jain, PW 4, owner of Alok Printing Press and certificate, Exh. P29, issued by Alok Kumar Jain, PW 4, argued that from the statements of this witness when it is proved that the earnings of Rajesh was Rs. 4,000, learned trial court committed an error in assessing the earnings only at Rs. 1,500 and awarding compensation accordingly. Inter alia, contending that the earnings of the deceased has been wrongly calculated at Rs. 1,500 per month and the compensation awarded by applying multiplier of 12 when age of the mother is only 39 years enhancement of the compensation is sought for. According to Mr. Verma, as per age of the mother, multiplier of 16 has to be adopted. Accordingly he prays for interference in this appeal. Mr. Verma, invites my attention to the following judgments and points out that in all these cases salary of a student have been assessed between Rs. 3,000 and Rs. 5,000 per month and, therefore, in the present case in the facts and circumstances assessment of the salary is said to be very much on the lower side. The judgments relied upon are:

C.G. Shrouti v. Badshah Khan ;

National Insurance Co. Ltd. v. Ujjwala ;

Damodar v. Rajendrasingh ;

Prema v. Madhya Pradesh State Road Trans. Corporation ;

Rafique v. Madhya Pradesh State Road Trans. Corporation : 2002(4)MPHT506 ;
and certain unreported judgments.

4. Mr. Rochlani refutes the aforesaid and submitted that assessment of compensation has been rightly made as claimants have not established employment of the deceased with Alok Printing Press and as the financial status and other details of this printing press were not adduced by PW 4 learned court has not committed any error in assessing monthly earnings of Rajesh at Rs. 1,500.

5. Having heard the learned Counsel for the parties and on a perusal of the records it is clear that the deceased Rajesh was a student of LL.B. Part II and the records indicate that he was also a computer diploma holder in Computer Technology and System Management. From the statement of Alok Kumar Jain, PW 4 and the certificate issued by this witness, Exh. P29, the earnings of late Rajesh is shown to be Rs. 4,000 per month. There is no evidence in rebuttal to disbelieve these facts. The learned Tribunal has rejected this evidence with regard to earnings of Rajesh being Rs. 4,000 only on the ground that Alok Kumar Jain, PW 4, has not produced the books of accounts of his press to show that he was paying Rs. 4,000 per month to deceased Rajesh. Merely because the account books are not produced that by itself is not a ground to disbelieve the statement, even if Rajesh was a student studying in LL.B., Part II. Records indicate that he was qualified person having successfully completed various diploma courses in the Computer Technology and System Management and Morena being about 35 to 40 km away from Gwalior, case of the claimants to the effect that Rajesh was working cannot be disbelieved as he can very well work and earn his living. Under such circumstances in the absence of any evidence to disbelieve the contentions put forth by the claimants, I am of the considered view that learned court committed grave error in rejecting the evidence with regard to earnings of Rajesh. Accordingly, earnings of deceased Rajesh has to be assessed after taking note of

the fact that he is qualified to operate computer, as claimed by his parents even though a sum of Rs. 4,000 indicated in the certificate, Exh. P29, cannot be believed completely but in the judgments relied upon by Mr. B.D. Verma, shows that in similar circumstances earnings of students have to be evaluated in the facts and circumstances of each case. In certain cases it is assessed at Rs. 3,000 per month and in some cases it is also assessed at Rs. 4,000 per month.

6. However in the facts and circumstances of this case it can be easily construed that Rajesh would be earning about Rs. 100 per day, from his vocation. Accordingly, holding Rajesh to be earning Rs. 3,000 per month, the same is assessed at Rs. 36,000 per annum and after deducting V3rd towards self expenses, the annual dependency of the claimants is worked out at Rs. 24,000, as the age of mother is only 39 years multiplier of 16 has to be applied and accordingly the compensation comes to Rs. 3,84,000, to this a sum of Rs. 5,000 for loss of expectancy of life and Rs. 2,000 for funeral expenses when added takes the compensation to Rs. 3,91,000. In my opinion this would be proper compensation which can be awarded to the claimants.

7. Accordingly, this appeal is allowed and compensation awarded enhanced from Rs. 1,22,000 to Rs. 3,91,000. The amount of compensation shall be paid by insurance company, i.e., respondent No. 2 and shall carry interest at the rate of 6 per cent per annum from the date of filing of this appeal till payment.

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