

Pushplata Verma and ors. Vs. Chen Singh and ors.

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Court : Madhya Pradesh

Decided On : Oct-04-2005

Reported in : II(2006)ACC317

Judge : S.K. Kulshrestha and ;A.K. Tiwari, JJ.

Appellant : Pushplata Verma and ors.

Respondent : Chen Singh and ors.

Judgement :

S.K. Kulshrestha, J.

1. This appeal under Section 173 of the M.V. Act, 1988, has been filed against the award dated 29.9.2004 of the Eleventh Additional Member, MACT, Indore, in Claim Case No. 33/2003 by which in respect of the death of Rajaram, husband of appellant No. 1, father of appellant Nos. 2 and 3 and son of appellant No. 4, the Tribunal has awarded a total sum of Rs. 3,11,000.00. By the present appeal, the appellants seek enhancement of the amount.

2. According to the claimants, on the night intervening 28-29.6.2003, while the deceased Rajaram was going with his other family members, near Police Station Rajendranagar, there was collision with the car driven by NA No. 1 bearing registration No. MP-09-HB-2198. He got stuck under the car and was dragged for about 100 feet. In a badly injured condition, he was taken to MY Hospital where he

was declared dead. Rajaram was an Assistant Excise Officer getting a salary of Rs. 15,000 per month and on account of his untimely death, the appellants lost their source of livelihood. In these premises, the appellants claimed compensation of a sum of Rs. 50,00,000.00. However, the Tribunal awarded only a sum of Rs. 3,11,000 with the result, the present appeal has been filed for enhancement.

3. Learned Counsel for the appellants submits that the Tribunal has not properly considered the income of the deceased and the amount on his personal expenses has been deducted excessively with the result, -the compensation determined is quite low. Learned Counsel for the respondents, per contra, have submitted that since the appellants have claimed compensation under Section 163A which provides a ceiling of income at Rs. 40,000, the ceiling had been properly considered and computed in accordance with Schedule under Section 163A of the Motor Vehicles Act and not only that on the basis of the said Schedule the amount has been properly worked out but on certain items such as loss of estate, all the claimants have been separately granted benefit. It has further been stated that according to the post-mortem report, the age of the deceased was 55 years and the same has been taken as 50 years and a higher multiplier has been applied.

4. It is not disputed that though the annual income of the deceased was more than Rs. 40,000, the structured formula provides for a maximum ceiling in Schedule-II. Under these circumstances, believing that the deceased was earning Rs. 40,000 per annum, the Claims Tribunal has taken his income as Rs. 40,000 and deducted 1/3rd for his personal expenses and calculated the compensation. A note appended to the chart provided in Schedule II clearly directs that the amount of compensation so arrived at in the case of fatal accident claims shall be reduced by 1/3rd in consideration, of the expenses which the victim would have incurred towards maintaining himself had he been alive. Though the learned Counsel has greatly stressed in view of the state of the family, the deceased may not have been incurring more than 1/4th on himself, in view of the said structured formula, we are of the view that such a deviation would be contrary to the statutory provision and its intendment.

5. The next contention of the learned Counsel is that though the Court had arrived at the conclusion that the age of the deceased was 50 years, instead of picking up the multiplier of 13 as per Schedule II, multiplier of 11 has been applied. Mr. Chawla for the respondent No. 3 has submitted that in fact in the autopsy report his age was mentioned as 55 and, therefore, multiplier of 11 picked up for the purpose of calculation does not suffer from any ambiguity. Since the Tribunal has found that the age of the deceased was 50 years and there is no appeal by any of the respondents, proceeding on the assumption that age has been rightly assessed, we find that since the age of 50 is common in the case of multiplier of age group of 45-50 and 50-55, for the former the multiplier of 13 and for the latter it being 11, a mean multiplier can be applied and instead of selecting multiplier of 13 or 11, it would be proper to select a multiplier of 12. Thus, the annual dependency comes to Rs. 26,667 and if the multiplier of 12 is applied, the amount comes to Rs. 3,20,004. If to this amount, a sum of Rs. 5,000 towards loss of consortium, Rs. 10,000 towards loss of love and affection to the other members of the family and Rs. 2,000 towards funeral expenses is added, the amount comes to Rs. 3,37,004. We are, therefore, of the view that a compensation of (in round figure) Rs. 3,40,000 in the facts and circumstances would be appropriate.

6. Accordingly, this appeal is partly allowed. The amount of compensation is enhanced to Rs. 3,40,000. The enhanced amount shall carry interest @ 6% per annum from the date of the application. The Tribunal shall suitably modify the direction about disbursement of the amount as contained in paragraph 9 of the award keeping in view the amount of enhancement. There shall be no order as to costs of this appeal.