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SooperKanoon Citation : sooperkanoon.com/512934

Court : Madhya Pradesh

Decided On : Jul-09-2003

Reported in : III(2004)ACC199

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

Appellant : Gopal

Respondent : Balbir Singh and ors.

Judgement :

Deepak Verma, J.

1. The respondent No. 3 has filed reply to the I.A. No. 3894 of 1999 which is an application for condonation of delay in preferring the appeal. The appeal is barred by ten days. We have perused the application and heard the learned Counsel. The application for condonation of delay is duly supported by an affidavit. We have no reason to disbelieve the averments made in the application and the supporting affidavit. In our opinion sufficient cause has been made out for not preferring the appeal within limitation. Thus, we condone the delay, I.A. No. 3894 of 99 is allowed and stands closed.

2. With consent arguments heard.

3. This appeal has been preferred for enhancement of compensation which has been awarded by the third Addl. Motor Accident Claims Tribunal, Ratlam in Claim Case No. 29 of 98 decided on 27th February, 1999.

4. The appellants are the parents of the deceased Bhawarlal who filed claim petition against the respondents for damages and compensation on Account of death of their son Bhawarlal in road Accident. The Accident took place on 8th June, 1997 on Account of the rash and negligent driving of the truck bearing Registration No. GK-17-T/7671 by respondent No. 1 driver. At the relevant time respondent No. 2 Ritesh was the owner of the truck which was insured with respondent No. 3. The Tribunal found that respondent No. 1 was responsible for causing the Accident and, therefore, held that respondent Nos. 1 to 3 are jointly and severally liable to pay the compensation to the appellants. On the basis of the evidence, the Tribunal found that at the time of the Accident, age of the deceased was only 19 years and he was working as a Cleaner. Although the claimants v claimed that the deceased was getting a handsome salary of Rs. 1,500/- and as he was a bachelor the whole amount of his salary used to be handed over to the claimants. The Tribunal found that the monthly income of the deceased was only Rs. 1,000/- out of which the deceased was spending on himself atleast Rs. 400/-. Thus the monthly loss of dependency of the claimants has been worked out at Rs. 600/- i.e. Rs. 7,200/- per annum. Looking to the age of the deceased at the time of the Accident the Tribunal applied a multiplier of 15.

5. Learned Counsel appearing for the appellants submitted that the Tribunal -erred in holding that the income of the deceased was only Rs. 1,000/- p.m. According to him the Accident took place in the year 1997 and looking to the rate of inflation and the cost of living he submitted that the deceased must be getting a minimum salary of Rs. 1,500/- p.m. and after deducting the conventional one-third amount the deceased was giving to the parents every month Rs. 1,000/- to Rs. 1,100/- as has come in the evidence of RW. 1. Learned Counsel for the appellant also submitted that in view of the facts and circumstances of the case and looking to the age of the deceased the Tribunal erred in adopting the multiplier of 15. The proper multiplier, According to the learned Counsel for the appellants, should be eighteen.

6. Per contra Mr. Mitha supported the award and submitted that the just and proper amount of compensation has been awarded to the claimants. Mr. Mitha also submitted that the Tribunal not only correctly assessed the monthly income of the deceased but also applied the proper multiplier.

7. From the evidence of P.W. 1 it is clear that the deceased used to give Rs. 1,000/- to Rs. 1,100/- every month to his mother for household expenses. Obviously this could have been done only after keeping apart some money which the deceased would be required to spend on himself during his lifetime. Thus, in our opinion, the monthly income of the deceased could be safely taken as Rs. 1,500/- and after deducting Rs. 400/- which the deceased might have been spending on himself during his lifetime the monthly loss of dependency of the appellants comes to Rs. 1,100/-. Thus, the annual loss of dependency of the appellants comes to Rs. 13,200/-. We find that the Tribunal has applied the multiplier of 15. In our opinion, looking to the age of the deceased, multiplier of 16 ought to have been applied. Thus, the appellants are entitled to receive Rs. 2,11,200/-. To this we add another sum of Rs. 3,800/- on other heads, like funeral expenses, loss of company, loss to the estate, etc. Thus the total amount payable by respondent Nos. 1 to 3 jointly and severally comes to Rs. 2,25,000/-. The enhanced amount shall carry interest at the rate of 8% p.a. from the date of application till it is actually paid. Respondent No. 3 shall bear the costs throughout. Counsel's fee Rs. 1,000/-, if certified.