

M. A. No.2859/2010

31/07/2012 :-

Appellants by Mr. Akash Rathi, advocate.

Respondents by Mr. Anupam Chouhan, advocate.

With the consent of the parties matter heard finally.

Order dictated in Open Court.

O R D E R

This is an appeal filed by the claimant under Section 173 of the Motor Vehicles Act against an award dated 19/08/2010 passed by MACT, Alirajpur in claim case No.50/2009. By the impugned award, the Claims Tribunal has awarded a total sum of Rs.2,56,500/- with interest to the claimants. According to claimants, the compensation awarded is on lower side and hence, need to be enhanced. It is for the enhancement in the compensation awarded by the Tribunal, the claimant has filed this appeal. So the question that arises for consideration is whether any case for enhancement/reduction, in compensation awarded by the Tribunal on facts / evidence adduced is made out and if so to what extent ?

2. It is not necessary to narrate the entire facts in detail, such as how the accident occurred, who was negligent in driving the offending vehicle, who is liable for paying compensation etc. It is for the reason that firstly all these findings are recorded in favour of

claimants by the Tribunal. Secondly, none of these findings though recorded in claimants' favour are under challenge at the instance of any of the respondents such as owner/driver or insurance company either by way of cross appeal or cross objection. In this view of the matter, there is no justification to burden the judgment by detailing facts on all these issues.

3. As observed supra, it is a death case. On 26/12/2008 deceased/Hemant who was aged 19 years, met with a motor accident and died, giving rise to filing of claim petition by legal representatives (appellants herein) out of which this appeal arises seeking compensation for his death. The case was contested by the respondents. Parties adduced evidence. The Claims Tribunal by impugned award partly allowed the claim petition filed by claimants and as stated supra, awarded a sum of Rs.2,56,500/-, break-up of which is as under :-

Rs.2,52,000/-	Loss of dependency
Rs.2,000/-	Funeral expenses
Rs.2,000/-	Loss of estate

Rs.2,56,500/-	Total

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4. Learned counsel submits that amount awarded is inadequate which deserves to be enhanced by allowing the appeal filed by the appellants.

4. Learned counsel for respondents submit that in the facts and circumstances of the case, the amount awarded by the learned tribunal is just and proper which requires no interference and the appeal filed by the appellants be dismissed.

5. After taking into consideration all the facts and circumstances of the case, this Court is of the opinion that a case of enhancement is made out. In view of this, the appeal filed by the appellants is allowed and appellants are further entitled for a sum of **Rs.25,000/-**.

6. Thus, the appellants are entitled for total sum of **Rs.2,81,500/-** instead of **Rs.2,56,500/-**. The enhanced amount of **Rs.25,000/-** shall carry interest @ 8% p.a. from the date of filing the application.

7. This order shall be executable upon payment of proportionate Court fees on the enhanced amount. The Court fees be paid within 3 months from the date of this order. Registry to prepare memo of costs. The appellant counsel shall provide certified copy of memo of costs to the counsel for Insurance Company. The Insurance Company thereafter shall deposit the enhanced amount with costs with the Tribunal within one month from the date of receipt of memo of Cost. Failure to comply with the aforesaid direction no interest would be payable on the enhanced amount from the date of judgment till the Court fees is

actually paid and memo of costs is supplied to counsel for Insurance Company.

8. With the aforesaid modifications, the appeal stands disposed of. C.C. as per rules.

(N.K. MODY)
Judge

Aiyer*