

THE HIGH COURT OF MADHYA PRADESH
MA 55/2007
Smt. Rajkumari and Anr. Vs. Ajmer Singh and Anr.

Gwalior, dtd. 31/01/2019

Shri Arun Sharma, counsel for the appellants/ claimants.

None for the respondents.

This Miscellaneous Appeal under Section 173 of the Motor Vehicles Act, 1988 has been filed against the Award dated 06/11/2006 passed by Sixth Additional Motor Accident Claims Tribunal, Gwalior in Claim Case No.12 of 2006, by which the Claims Tribunal has awarded the compensation of Rs.72,000/- with 6% interest and it has been directed that the respondents shall be jointly and severally liable to pay the compensation amount to the claimants.

It is submitted by the counsel for the appellants that on 2/11/2005 at about 05:00 PM, the deceased was playing by the side of the road. The respondent No.1, by driving the offending tractor in rash and negligent manner, dashed the deceased causing injuries as a result of which he expired on the spot. At the time of death, the age of the deceased was five years. The Claims Tribunal has held that the respondent No.1, in rash and negligent manner, had dashed the deceased, thereby causing his death. So far as the question of quantum is concerned, the Claims Tribunal has held that as the deceased was aged about 4-5 years, therefore, a lump sum of Rs.50,000/- towards the compensation amount would be sufficient. Further, for loss of estate, loss of love and affection and towards funeral charges, an amount of Rs.22,000/- has been awarded.

Challenging the amount of compensation awarded by the Claims Tribunal, it is submitted by the counsel for the appellants that where the deceased is a minor, then his notional income has to be assessed and the multiplier as provided in Schedule-II of the Motor Vehicles Act is to be applied. To buttress his contention, the counsel for the appellants has relied

upon the judgments passed by the Supreme Court in the cases of **Kishan Gopal and Another vs. Lala and Others**, reported in **2013 ACJ 2594** and **Ratan and Another vs. Rakesh Jain and Another**, reported in **2014 ACJ 2308** as well as the order dated 18-05-2018 passed by this Court in the case of **Smt. Guljari Bai Adiwasi vs. Hariom Prajapati (MA 22/2017)**. It is further submitted that the Claims Tribunal has committed a material illegality by not taking the notional income of the deceased as well as by not applying the multiplier.

Considered the submission made by counsel for the appellants.

In the present case, the accident took place on 02/11/2005 due to rash and negligent driving of respondent No.1. Considering the price index, inflation etc. the notional income of the deceased can be safely assessed at Rs.30,000/- in an accident, which has taken place on 02/11/2005. As the age of the deceased was 4-5 years at the time of accident, therefore, the multiplier of 15 would apply. Accordingly, the appellants would be entitled for Rs.30,000/- X 15 = Rs.4, 50,000/- towards loss of income. The Supreme Court in the case of **National Insurance Company Limited vs. Pranay Sethi and Others**, reported in **(2017) 16 SCC 680**, has awarded Rs.15,000/- under the head of loss of estate, Rs.40,000/- under the head of loss of love and affection and Rs.15,000/- under the head of funeral expenses. Accordingly, it is held that the appellants are entitled for Rs.70,000/- under above Heads. Accordingly, the appellants are entitled for total compensation amount of Rs.4,50,000/- + Rs.72,000/- = Rs.5,22,000/-, out of which Rs.72,000/- has already been awarded by the Claims Tribunal.

As the appellants have valued the appeal at Rs.3,54,000/-, therefore, it is directed that the appellants shall be entitled to receive further amount of Rs.3,54,000/- in place of Rs.4,50,000/-. Other terms and conditions of the Award shall remain the same.

(G. S. Ahluwalia)
Judge