(2024) 07 MP CK 0027

Madhya Pradesh High Court (Jabalpur Bench)

Case No: Miscallenous Appeal No.2423 of 2018

Anjum Ansari And Others		APPELLANT
	Vs	
R. Rajesh Rao And Others		RESPONDENT

Date of Decision: July 20, 2024

Acts Referred:

- Motor Vehicles Act, 1988 &mdash Section 173(1)

Hon'ble Judges: Achal Kumar Paliwal, J

Bench: Single Bench

Advocate: R.P. Mishra, Gulab Chand Sohane

Final Decision: Disposed Off

Judgement

,,

Achal Kumar Paliwal, J",,

With the consent of both learned counsel for the parties, heard finally at motion stage.",,

2. This appeal has been filed by the claimants/appellants under Section 173 (1) of the Motor Vehicles Act, 1988 against the award dated 15.01.2018",,

passed in Claim Case No.62/2017 by 5th Additional Member to First Additional M.A.C.T., Bhopal, seeking enhancement of compensation.",,

3. Learned counsel for the appellants submits that deceased was in a permanent job. Therefore, 15 % should have been added as future prospects but",,

learned tribunal has added 10% as future prospects. Learned counsel for the appellants further submits that tribunal has awarded consortium to,, appellant No.1 only and no compensation as consortium has been awarded to appellant No.2 to 4. On above grounds, it is urged that compensation",,

awarded by the Tribunal be suitably enhanced.,,

4. Learned counsel for the respondent/insurance company submits that deceased was working as teacher in private college affiliated to Rajiv Gandhi,,

Technical University, Bhopal. Therefore, job of deceased would not come within purview of permanent job. Government employee would be treated",,

person in permanent job. Learned counsel for the respondent/insurance company also submits that it is a case of head on collision. Therefore, amount",,

of contributory negligence should also have been deducted. On above ground, it is urged that appeal filed by the appellants be dismissed.",,

5. I have heard the learned counsel for the parties and perused record of the case.,,

6. From para 14 to 19 of the impugned award, it is evident that deceased was working as Assistant Professor in Corporate Institute of Science and",,

Technology, Bhopal. Thus, admittedly, deceased was not in government job.",,

7. In view of rival submissions of parties, primary issue involved in the case is whether only government servant can be treated as being in",,

â€œpermanent jobâ€ for the purpose of grant/award of future prospects?,,

8. In this courtâ€™s opinion, above issue stands settled by Five Judges Bench of Honâ€™ble Apex Court inN ational Insurance Company Ltd.",,

Vs. Pranay Sethi, AIR 2017 SC 5157 as under:-",,

â€œ55. Presently, we come to the issue of addition of future prospects to determine the multiplicand.",,

56. In Santosh Devi (AIR 2012 SC 2185) the Court has not accepted as a principle that a self-employed person remains on a fixed salary,,

throughout his life. It has taken note of the rise in the cost of living which affects everyone without making any distinction between the rich,,

and the poor. Emphasis has been laid on the extra efforts made by this category of persons to generate additional income. That apart,",,

judicial notice has been taken of the fact that the salaries of those who are employed in private sectors also with the passage of time,,

increase manifold. In Rajeshâ€™s case, the Court had added 15% in the case where the victim is between the age group of 15 to 60 years",, so as to make the compensation just, equitable, fair and reasonable. This addition has been made in respect of self-employed or engaged on",,

fixed wages.,,

57. ----------------In such an adjudication, the duty of the tribunal and the courts is difficult and hence, an endeavour has been made by this",,

Court for standardisation which in its ambit includes addition of future prospects on the proven income at present. As far as future,,

prospects are concerned, there has been standardisation keeping in view the principle of certainty, stability and consistency. We approve",,

the principle of â€œstandardisationâ€ so that a specific and certain multiplicand is determined for applying the multiplier on the basis of,,

age.,,

59. Having bestowed our anxious consideration, we are disposed to think when we accept the principle of standardisation, there is really",,

no rationale not to apply the said principle to the self-employed or a person who is on a fixed salary. To follow the doctrine of actual,,

income at the time of death and not to add any amount with regard to future prospects to the income for the purpose of determination of,,

multiplicand would be unjust. The determination of income while computing compensation has to include future prospects so that the method,,

will come within the ambit and sweep of just compensation as postulated under Section 168 of the Act. In case of a deceased who had held a,,

permanent job with inbuilt grant of annual increment, there is an acceptable certainty. But to state that the legal representatives of a",,

deceased who was on a fixed salary would not be entitled to the benefit of future prospects for the purpose of computation of compensation,,

would be inapposite. It is because the criterion of distinction between the two in that event would be certainty on the one hand and,,

staticness on the other. One may perceive that the comparative measure is certainty on the one hand and uncertainty on the other but such a,,

perception is fallacious. It is because the price rise does affect a self-employed person; and that apart there is always an incessant effort to,,

enhance one's income for sustenance. The purchasing capacity of a salaried person on permanent job when increases because of grant of,, increments and pay revision or for some other change in service conditions, there is always a competing attitude in the private sector to",,

enhance the salary to get better efficiency from the employees. Similarly, a person who is self-employed is bound to garner his resources",,

and raise his charges/fees so that he can live with same facilities. To have the perception that he is likely to remain static and his income to,,

remain stagnant is contrary to the fundamental concept of human attitude which always intends to live with dynamism and move and change,,

with the time. Though it may seem appropriate that there cannot be certainty in addition of future prospects to the existing income unlike in,,

the case of a person having a permanent job, yet the said perception does not really deserve acceptance. We are inclined to think that there",,

can be some degree of difference as regards the percentage that is meant for or applied to in respect of the legal representatives who claim,,

on behalf of the deceased who had a permanent job than a person who is self-employed or on a fixed salary. But not to apply the principle,,

of standardisation on the foundation of perceived lack of certainty would tantamount to remaining oblivious to the marrows of ground,,

reality. --------------------.,,

61. In view of the aforesaid analysis, we proceed to record our conclusions:",,

(i) XXX XXX XXX XXX,,

(ii) XXX XXX XXX XXX,,

(iii) While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the",,

deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased",,

S.N.,HEADS,COMPENSATION

1.,Monthly Income of the deceased- (A),"Rs. 30,789/-

2.,"Monthly Income after adding future Prospects- (B)

{ Future Prospects = 15% of monthly income}",Rs. 35407/-

3.,"Monthly loss of dependency (B-Personal & living expenses of

the deceased) -Personal & living expenses= 1/4","Rs. 26,555/-

4.,Annual loss of dependency-(monthly loss of dependency x 12),"Rs. 3,18,660/-

5.,"Total loss of dependency-(Annual loss of dependency x 11

Multiplier) -(C)","Rs. 35,05,260/-/-

6.,Compensation for loss of spousal/parental/filial consortium-(D),"Rs.1,60,000/-

7.,Compensation for loss of estate-(E),"Rs.15,000/-

8.,Compensation towards funeral expenses-(F),"Rs.15,000/-

9.,TOTAL COMPENSATION-{C+D+E+F=H},"Rs. 36,95,260/-

10.,Total Compensation awarded by the Tribunal-(I),"Rs.34,23,000/-

11.,ACTUAL ENHANCEMENT-(H-I=J),"Rs.2,72,260/-