

## M.P.S.R.T. Corporation Vs Chanderbai and Another

**Court:** Madhya Pradesh High Court

**Date of Decision:** Sept. 18, 1986

**Acts Referred:** Motor Vehicles Act, 1988 " Section 110A, 110D, 92A

**Citation:** (1987) 2 ACC 65

**Hon'ble Judges:** V.D. Gyani, J

**Bench:** Single Bench

### Judgement

V.D. Gyani, J.

This is an appeal u/s 110-D of the Motor Vehicles Act (hereinafter referred to as the Act) against the award dated 10-7-1985, passed by the Motor Accidents Claim Tribunal, Ujjain, in Claim Case No. 58 of 1983, thereby awarding Rs. 15000/- as compensation

with interest at the rate of 6% per annum from the date of application, i.e. 9-8-1982.

2. Brief facts are that on 27-3-1983 Rajesh, a young boy was grazing she-goats in the afternoon, when a bus bearing registration No. CPM-8585,

driven by respondent No. 2 and belonging to the appellant while proceeding towards Neemuch from Ujjain, knocked him down in village

Khodotia. A report about the accident was lodged at police station Ingoria. As a result of the injuries sustained, Rajesh died on 2-4-1983. His

mother, respondent No. 1-Chanderbai, preferred an application for compensation u/s 92A and Section 110A of the Act, claiming Rs. 48,000/-as

compensation. In Sub-clause (b) of para 6 of the claim-petition the claimant-respondent has very clearly stated that she should be awarded Rs.

15000/-as compensation u/s 92A of the Act, reserving her right to compensation as claimed by her on account of negligent driving by the driver.

3. There is no dispute about the ownership of the vehicle and the fact that the vehicle in question was being driven by the respondent No. 2. The

accident has also not been disputed, although negligence of the driver was disputed. The Tribunal has found the driver to be negligent and awarded

Rs. 15000/- as compensation with 6% P.A. interest from the date of application.

4. Shri Dhupar, learned Counsel appearing for the appellant, placing reliance on decisions in Beliya and Others Vs. M.P.S.R.T. Corporation and

Another, , Nandram Heeralal Vs. Union of India (UOI) and Another, , Roop Singh Bhadoria Vs. Moolchand Beharilal and Others, and Euclides

Joao Rodrigues and Another Vs. Custodio Dias and Another, contended that the compensation awarded is excessive and in view of the fact that

the earning capacity of the deceased Rajesh has not been proved, it should not have been more than Rs. 6000/-. Shri Saxena, learned Counsel

appearing for the respondent-claimant on the other hand submitted that in view of Section 92A of the Act, the Tribunal was justified in awarding

Rs. 15,000/- as compensation, but his grievance is about the rate of interest.

5. Section 92A of the Act came into force with effect from 1-10-1982 and the accident took place on 27-3-1983 and the application for

compensation was made on 9-8-1983. Thus it cannot be said that Section 92A of the Act was not attracted to the instant case. Shri Dhupar,

however, contended that the claim petition u/s 92A, as framed, was itself not maintainable and the Tribunal had no power to award compensation

on that account for want of rules framed by the State Government, as regards Section 92A of the Act. This submission cannot be accepted in view

of the Explanation added to the Proviso to Sub-section (1) of Section 110 of the Act, which was inserted by Amendment Act No. 47 of 1982 and

came into force from 1-10-1982. The Explanation reads thus:

Explanation--for the removal of doubts, it is hereby declared that the expression ""claims for compensation in respect of accidents, involving the

death of, or bodily injury to, persons arising out of the use of motor vehicles includes claims for compensation u/s 92A.

It is thus clear that the Tribunal could well have entertained the claim for compensation u/s 92A of the Act. The objection raised by the learned

Counsel for the appellant has no force and has got to be rejected.

6. Learned Counsel for the respondent submitted that the interest awarded by the Tribunal is too low and that it should have been at least at 12%

per annum. This submission deserves to be accepted. The rate of interest is, therefore, modified to 12% per annum from the date of application till

realisation of the amount of compensation awarded.

No other point is raised.

7. This appeal, therefore, fails and is accordingly dismissed subject to the modification in the rate of interest. Claimant respondent No. 1--

Chanderbai shall be free to withdraw the amount, if deposited, by the appellant.