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(1990) ACJ 527

Madhya Pradesh High Court (Gwalior Bench)

Case No: M.A. No. 29 of 1983

Mukesh and Others	APPELLANT
Vs	
Kishor Singh Tomar and Others	RESPONDENT

Date of Decision: Aug. 22, 1989

Citation: (1990) ACJ 527

Hon'ble Judges: T.N. Singh, J; S.K. Dubey, J

Bench: Division Bench

Advocate: B.D. Verma, for the Appellant; N.D. Singhal, for the Respondent

Final Decision: Allowed

Judgement

T.N. Singh, J.
The claimants are appellants, who have assailed the award of Motor Accidents Claims Tribunal, Gwalior, claiming

enhancement.

2. The deceased Bhawani was in the employment of the Railways and he met his death on 30.6.1981 at about 10.00 p.m. in a motor accident.

The Matador vehicle involved in the accident, registered No. MPW 8415, was insured admittedly with respondent No. 3 on the relevant date but

the insurer-respondent has not produced and proved the insurance policy of the vehicle.

3. Admittedly, the deceased was drawing a salary of Rs. 482/- per month and he was about 40 years of age on the date of death. The Tribunal

passed an award in the sum of Rs. 21,580/- and also awarded interest at the rate of 9 per cent per annum and in making that award took the view

that the dependency of the claimants could be laid at the most in the sum of Rs. 150/- per month. He reached the figure of Rs. 23,400/- but made

deductions of 30 per cent. However, for pain and suffering and also loss of company further sums were awarded.

4. Respondent''s counsel, Mr. Singhal''s contention is that the award on two counts as respects loss of company and compensation for pain and

suffering is illegal. To that, however, there could be no reasonable objection but the moot question is whether dependency has been rightly

assessed and settled in this case. The deceased had a family with 4 dependants and it is difficult to conceive of a case in the present conditions of

high cost of living for such a family to be maintained with the meagre amount of Rs. 150/-. We are also not at all happy with the finding and

conclusion of the Tribunal that the multiplier can be only 13 and deduction of 30 per cent could legally be made on that footing.

5. We are of the view that loss of dependency in any view of the facts and circumstances cannot be assessed at a figure of less than Rs. 300/- per

month and a multiplier of 15 would do justice to the claimants. Therefore, though we reject the finding and conclusion and award of the Tribunal

with respect to compensation for loss of company and pain and suffering of the claimants, we hold the claimants to be entitled for compensation to

be paid to them in the lump sum of Rs. 54,000/-. That in our view would be just compensation for the death of Bhawani, whose widow and

children as also mother are the claimants.

6. For the reasons aforesaid, the appeal is allowed and the impugned award is modified. The claimants are held entitled to be paid compensation in

the sum of Rs. 54,000/- by respondent No. 3, insurer. That amount shall be deposited along with the interest at the rate of 12 per cent per annum

from the date of application till the date of payment with the Tribunal. At the time of disbursement of the sum deposited, the Tribunal shall take care

to safeguard the interest of the minors and do the needful accordingly. There shall be no order as to costs in this matter in this court.