

Puniya and Others Vs Kamal and Others

Court: Madhya Pradesh High Court

Date of Decision: Oct. 15, 1987

Citation: (1988) 1 ACC 350

Hon'ble Judges: K.K. Verma, J

Bench: Single Bench

Judgement

R.K. Varma, J.

This is an appeal by the claimants directed against the award passed by the Member, Motor Accident claims Tribunal,

Jhabua on 2-8-1980 in Claim Case No. 17/78 whereby the learned Tribunal has awarded Rs. 4/00/- with interest @ 6 per cent per annum from

the date of filing the claim petition till realisation as compensation in respect of the death of Sugani w/o Puniya Bheel-the appellant-claimant No. 1,

as a result of the motor accident which took place on 9-3-1978 due to rash and negligent driving of the offending truck bearing registration No.

MPN 5775 which ran-over the deceased Sugani causing her death instantaneously.

2. On a claim petition having been filed by the husband and children of the deceased, the learned Tribunal, on appreciation of evidence adduced in

the case, came to the conclusion that the accident resulting in death of the deceased Sugani was caused due to rash and negligent driving of the

truck by its driver-respondent No. 1 and awarded compensation as aforesaid against the driver and owner of the truck as well as the Insurance

Company which had insured the owner in respect of the truck in question during the material period Being aggrieved by the inadequacy of the

amount of compensation, the claimants have filed this appeal.

3. There is no challenge to the finding of the rash and negligent driving of the offending truck which caused the accident resulting in the death of the

deceased Sugani.

4. As regards the quantum of compensation, the learned Counsel for the appellants has contended that the amount of Rs. 4,600/- awarded as

compensation for the death of Sugani is too inadequate. The evidence of the appellant No. 1 Puniya who has been examined as AW-1 shows that

Sugani was aged 40 years and she was earning Rs. 5/- per day as a labourer and that she was also helping her husband in agriculture. It is urged

that it would be just and fair to assume that the contribution of the deceased towards earning for maintenance of the family apart from her personal

maintenance was Rs. 100/- per month instead of Rs. 30/- as estimated by the learned Tribunal. Agreeing with the submission of the learned

Counsel, I estimate the loss of annual dependency on account of the death of the deceased to be Rs. 1,200/-. Taking a multiplier of ten years to be

reasonable having regard to the age of the deceased who was only 40 years of age at the time of her death by the accident, the total loss of

dependency can fairly be estimated as Rs. 12,000/- instead of Rs. 3,600/- as estimated by the learned Tribunal.

5. For the loss of company of the deceased on account of her death, an amount of Rs. 3,000/- should be awarded instead of Rs. 1,000/- as

awarded by the learned Tribunal. Thus, a total amount of Rs. 15,000/- with interest @ 9 per cent per annum instead of 6 per cent per annum from

the date of filing of the claim petition till realisation would be a reasonable compensation to which the appellants should be held entitled.

Accordingly the respondents-owner, driver and the Insurance Company are held jointly and severally liable to pay the compensation determined as

above.

6. In the result, this appeal is partly allowed with costs and the award is modified inasmuch as the appellant-claimants shall be entitled to receive

from the respondents Rs. 15,000/- as compensation together with interest @ 9 per cent per annum from the date of filing of the claim petition till

realisation. Counsel's fee shall be fixed at Rs. 300/-, if certified.