(2003) 2 ACC 239

Madhya Pradesh High Court

Case No: None

Dilip Deshlehra		APPELLANT
	Vs	
Varsha Gyanwani and Others		RESPONDENT

Date of Decision: Jan. 6, 2000

Citation: (2003) 2 ACC 239

Hon'ble Judges: P.N.S. Chauhan, Acting C.J.; A.K. Mishra, J

Bench: Division Bench

Judgement

D.P.S. Chauhan, Actg. C.J.

1. This appeal is directed against the award dated 27.8.1998 passed by the Additional Motor Accident Claims Tribunal, Bemetara, District Durg, in Claim Case No. 4 of 1997 whereby the Tribunal awarded a total sum of Rs. 1,84,000/- towards compensation jointly and severally against the present appellant who was the owner of the dumper bearing registration No. MP 24-C 0004 by which the accident in question took place and the driver of the said dumper.

2. Heard Mr. P.S. Das, learned Counsel for the appellant.

Learned Counsel for the appellant submitted that though the Insurance Company is made party in the case but the appellant has not been able to establish insurance of the vehicle; therefore, he finds it very difficult to get any claim against the Insurance Company. His submission was that the Tribunal has erred in granting compensation of Rs. 1,84,000/-. The grievance is that the Tribunal found that the deceased was earning Rs. 40/- per day as a labourer and the monthly income was assessed at Rs. 1,200/-. Out of this monthly income, the Tribunal deducted 1/4th of the amount towards the expenses which the deceased was spending on himself and the rest 3/4th amount the deceased was spending on his family members. Learned Counsel submitted that the Tribunal has committed error in doing so and the same is contrary to the note as contained in the

Second Schedule of the Motor Vehicles Act which says that the amount of compensation so arrived at in the case of fatal accident claims shall be reduced by 1/3rd in consideration of the expenses which the victim would have incurred towards maintaining himself had he been alive. Firstly, this note is applicable in the case of victim if he is alive; it is not applicable in the case of a person who has died. Secondly, the Schedule is only a guideline and in the present case, the Tribunal while doing so has taken into consideration the number of dependants of the deceased.

3. Heard Mr. Prashant Mishra, learned Counsel for respondent Nos. 1 to 5 and Mr. Sanjay Agarwal, learned Counsel for respondent No. 7, Insurance Company. Learned Counsel for the respondents submitted that the finding of the Tribunal requires no interference as the Tribunal has calculated the amount of compensation after reducing the income of the deceased by 1/4th taking into consideration the number of dependants of the deceased.

4. After hearing the learned Counsel for the parties, we are of the opinion that the finding of the Tribunal requires no interference and the appeal is liable to be rejected.

5. Mr. Prashant Mishra, learned Counsel for the respondent Nos. 1 to 5 submitted that he has also filed a cross-objection and his submission is that the multiplier of 16 as applied by the Claims Tribunal is not correct and instead of 16 it should have been 17. Learned Counsel relied upon the Second Schedule of the Motor Vehicles Act. Since in this case, instead of reducing the amount by 1/3rd, only 14th income is deducted as the amount which the deceased might have spent on himself, we do not consider that the multiplier of 16 was less. The award of the Tribunal is just and proper. It is not case for interference. The cross-objection, therefore, also deserves to be rejected.

6. Consequently, the appeal as well as cross-objections are dismissed. No orders as to costs.