

SMT. PRERNA AND ANR.

A

v.

M.P. STATE ROAD TRANSPORT CORPORATION AND OTHERS

JANUARY 28, 1993

[KULDIP SINGH AND S. MOHAN, JJ.]

B

*Motor Vehicles Act :*

*Accident resulting in death—Award of compensation—Dependency of claimants—Fixing of—Longevity, future increments and loss of consortium—Consideration of—Higher multiplier—Adoption of—Enhancement of compensation and rate of interest.*

C

The husband of the petitioner died in a road accident. His father, wife and minor daughter moved a petition before the Motor Accidents Claim Tribunal claiming a compensation of Rs. 1,50,000. The tribunal ordered payment of Rs. 26,000 and apportioned the amount amongst the widow, minor daughter and father at Rs. 12,000, Rs. 10,000, and Rs. 4,000 respectively. The Tribunal also ordered payment of interest @ 6% from the date of application.

D

The appeals filed by both the parties were dismissed by the High Court. However, it enhanced the interest from 6% to 9%. The widow and minor daughter of the deceased preferred the present appeal against the judgment of the High Court.

E

Allowing the appeal, this Court,

F

HELD : 1. There was no evidence before the tribunal to show that the deceased was addicted to drinking. The tribunal fell into patent error in fixing the dependency of the claimants on the deceased to the extent of Rs. 150 per month on the ground that he was a drunkard and as such was spending more amount on himself than on his family. [324B-C]

G

2. From the evidence on the record it can safely be concluded that the deceased was spending Rs. 300 per month on his family and running the house-hold. On the date of the accident, the deceased was 26 years of age. The father of the deceased was aged about 70 years in 1985 when the special leave petition was filed. Longevity in the family can, therefore, be

H

A assumed. The tribunal did not give any allowance for the future increments and promotional chances of the deceased. No compensation was awarded for the loss of consortium. Keeping in view all these facts and circumstances it would be just and proper to allow 24 years multiplier, as against the multiplier of 17 adopted by the Tribunal. On this basis a sum of Rs. 86,000

B is awarded as compensation to the three claimants. They shall also be entitled to interest @ 12% from the date of application before the tribunal. Since the compensation is being enhanced by this Court after about 15 years of the accident, there is no question of making any deductions on any score. The sum of Rs. 86,000 shall be apportioned by paying Rs. 40,000

C to the minor daughter, Rs. 30,000 to the widow of the deceased and Rs. 16,000 to the father of the deceased. [324E-H]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 278 of 1993.

D From the Judgment and Order dated 9.10.1984 of the Madhya Pradesh High Court in Misc. Appeal No. 215 of 1982.

Sushil Kumar Jain for the Appellants.

E Rameshwar Nath, Ravinder Nath, (for M/s Rajinder Narain & Co. for the Respondents.

The following Order of the Court was delivered:

**KULDIP SINGH, J.** Special leave granted.

F Padmakar More was going on a bicycle on September 9, 1978 when he was knocked down by a Bus owned by the respondent-corporation. He succumbed to the injuries on the spot. Narayan, father of Padmakar, Prerna his widow and Shweta a minor daughter moved a petition before the First Additional Motor Accidents Claim Tribunal, Indore claiming Rs. 1,50,000 as compensation. The tribunal by its award dated April 27, 1982

G allowed the claim petition and ordered payment of Rs. 26,000 with interest at 6% from the date of the application. The tribunal further directed the said amount to be apportioned as Rs. 12,000, Rs. 10,000 and Rs. 4,000 amongst the widow, minor daughter and the father respectively. The tribunal further directed that the share of the minor daughter be deposited

H in the State Bank of India, Indore in re-investment scheme, which shall be

payable to her on attaining majority. The tribunal based its findings on the following reasoning :

"In view of foregoing discussion my finding is that the accident took place due to negligent driving of the motor bus by the N.A. No.2 and as a result of the said accident Padmakar sustained fatal injuries and succumbed to them on the spot. Issue No.3- Date of birth of Padmakar as per record of the Hukum Chand Mills is 16th June, 1952. He was thus 26 years of age on the date of the accident. According to pay sheet of the Hukum Chand Mills for August, 1978 Padmakar was given Rs. 411.70 paise as gross salary excluding the deduction on account of advances and Rs. 27 on account of canteen and insurance. After deduction of the amount of canteen and insurance the net amount of salary comes to Rs. 384.70 paise. It appears that Padmakar was a drunkard. Naturally he might be spending more amount on himself than on his family. The dependency may be taken Rs. 150 per month. Padmakar was young man of 26 years. 17 years multiplier would be just and proper in this case. Thus the gross compensation comes to Rs. 30,600. Out of this 15% are deducted on account of lumpsum payment and uncertainties of life. Thus the net compensation comes to Rs. 26,000. I have not taken into consideration the future increment of Padmakar and therefore, the deduction on account of lumpsum payment and uncertainties of life should have been less than 15%. However, I have deducted 15% keeping in view that the widow of Padmakar is young lady of about 21 years and there is more chance of her re-marriage. Out of Rs. 26,000, Rs. 4000 are apportioned to the share of old father Narayan of Padmakar. Rs. 10,000 to the share of minor daughter of Padmakar and Rs. 12,000 to the share of widow of Padmakar."

A  
B  
C  
D  
E  
F  
G  
H

The claimants went in appeal against the award of the tribunal. The Corporation also filed an appeal against the judgment of the tribunal. By a common judgment dated October 9, 1984 the High Court dismissed both the appeals. The High Court, however, enhanced the interest awarded to

A the claimants from 6% to 9%. This appeal is by the widow and the minor daughter for enhancement of compensation. Narayan, father of the deceased has also been impleaded as proforma respondent.

B We have heard learned counsel for the parties. It is not disputed that decreased Padmakar was 26 years of age on the date of the accident. It is also not disputed that after deductions his pay packet used to be Rs. 384.70. There was no evidence before the tribunal to show that the deceased Padmakar was addicted to drinking. The tribunal fell into patent error in fixing the dependency of the claimants on the deceased Padmakar to the extent of Rs. 150 per month on the ground that Padmakar was a drunkard and as such was spending more amount on himself than on his family. The High Court on this aspect held as under :

C "There is no evidence to indicate that the deceased was a drunkard or that even at the time of the accident he was in a drunken state and that it is on that account that of his own he fell down on the ground on the road and thus sustained the injuries which resulted in his death."

D We are of the view that from the evidence on the record it can safely be concluded that the deceased was spending Rs. 300 per month on his family and running the house-hold. We set aside the finding of the trial court as upheld by the High Court on this issue. We are further of the view that the tribunal was not justified in applying the multiplier of seventeen in this case. The deceased was 26 years of age at the time of his death. The cause-title of the special leave petition shows that Narayan, the father of the deceased was aged about 70 years in 1985 when the special leave petition was filed. Longevity in the family can, therefore, be assumed. The tribunal did not give any allowance for the future increments and promotional chances of Padmakar. No compensation was awarded for the loss of consortium. Keeping in view all the facts and circumstances of the case it would be just and proper to allow 24 years multiplier. We, therefore, award Rs. 86,000 as compensation to the three claimants. They shall also be entitled to interest @ 12% from the date of application before the tribunal. Since the compensation is being enhanced by this Court after about 15 years of the accident, there is no question of making any deductions on any score. We further direct that the sum of Rs. 86,000 shall be apportioned by paying Rs. 40,000 to the minor daughter Shweta, Rs. 30,000 to Prerna, widow of the deceased and Rs. 16,000 to Narayan the father of the

deceased. We further direct that the share of the minor daughter Shweta be deposited in the bank as per the directions of the tribunal. After deducting the amount, if any, already paid to any of the claimants the balance amount with interest shall be paid by the respondent-corporation to the claimants within two months from today. The appeal is allowed with costs which we quantify as Rs. 5000 to be paid by the Corporation to Prerna, widow of the deceased. The appeal is allowed to the above extend.

A

B

G.N.

Appeal allowed.