

Madhya Pradesh High Court

New India Assurance Company ... vs Shakur Ali And Ors. on 1 June, 2000

Equivalent citations: 2 (2000) ACC 561

Author: S Singh

Bench: R Vyas, S Singh

JUDGMENT Shambhoo Singh, J.

1. This appeal is directed by the non-applicant Insurance Company against the award dated 6.5.1996 passed by II Additional M.A.C.T., Mandsaur in Claim Case No. 79/94 whereby compensation of Rs. 65,000/- with interest @ 12% per annum was awarded to the respondents for the death of Mumtajbi, wife of respondent No. 1 and mother of the respondent Nos. 2 and 3.

Respondent Nos. 1 to 3 also filed cross-objections for enhancement of compensation amount.

2. In our opinion, the appellant Insurance Co. cannot challenge the award amount. It can only challenge the award on the grounds mentioned in Section 149(2) of the M.V. Act. The appellant did not obtain permission of the Tribunal under Section 170 of the M.V. Act. Therefore, the appellant cannot raise any plea beyond what is permissible under Section 149(2) of the Act. There is also no evidence that there was collusion between insured and the claimants. Therefore, this appeal deserves to be dismissed.

3. Mr. Bagadiya, learned Counsel for the respondents-claimants submitted that awarded amount is very low. He prays for enhancement.

4. Mr. Swami, learned Counsel for the Insurance Company contended that the amount is more than sufficient.

5. We considered the arguments advanced learned Counsel for both sides and perused the record.

6. It has come in the evidence of Shakur Ali that his wife Mumtajbi used to work in his field and also graze goats and used to earn Rs. 35-40 per day by working as a labourer. There is nothing on record to disbelieve him. We may safely held that the deceased was earning atleast Rs. 25/- per day. After deducting 1/3 of it for personal expenses of the deceased, the dependency of the family comes to Rs. 500/- per month and yearly Rs. 6,000/-. Shakiy Ali did not state age of his wife. In the post mortem report her age has been shown to be 46 years. We, therefore, select multiplier of 13 and by multiplying it with the multiplicand the amount of compensation comes to (6000 x 13) Rs. 78,000/-. Appellant No. 1 is also entitled to Rs. 5,000/- for loss of consortium and appellant Nos. 2 and 3 each are entitled to Rs. 5,000/- for loss of love and affection. On addition of this amount, compensation comes to Rs. 93,000/-. In our opinion this will be the just and fair compensation.

In the result the appeal is dismissed. Cross-objection is allowed and it is directed that the appellant shall pay Rs. 93,000/- after adjusting the amount already paid, with interest @-12% per annum from the date of filing of the application till realisation. No order as to costs.