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MA-1988-2011

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE HIMANSHU JOSHI

ON THE 9th OF SEPTEMBER, 2025MISC. APPEAL No. 1988 of 2011*THE STATE OF MADHYA PRADESH**Versus**SMT. RADHARANI AND OTHERS*

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Appearance:

Shri Nilesh Yadav - Additional Advocate General with Shri K.S. Baghel -
Government Advocate for the appellant/State.
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ORDER

By way of the present Miscellaneous Appeal the State of Madhya Pradesh through Divisional Forest Officer, Wild Life Division, Nauradehi, District Sagar has challenged the order dated 22.12.2010 passed in Calim Case No.20 of 2010, whereby the learned Tribunal has allowed the claim petition of the claimants and passed an award of Rs.1,35,200/- in favor of the claimants on a death claim.

2. Heard learned AAG Shri Nilesh Yadav alongwith Shri K.S. Baghel, G.A. for the appellant/State.
3. The facts of the case reveal that the claimant has preferred a Claim Case bearing No. 20 of 2010 under the provisions of Section 166 of the Motor Vehicles Act for grant of compensation in lieu of an accident occurred on 13.07.2009. As per the averments of the claim case, on the unfortunate day of 13.07.2009 at about 1:00 PM near village Berpani, the respondent no.4/driver of the offending vehicle bearing registration No.MP-02/AV-



1562, while driving the vehicle in rash and negligent manner dashed Shiv Prasad Gond (since deceased), resulting into his death.

4. The legal representatives of deceased Shiv Prasad Gond, including wife and son, have preferred a claim petition before the Claims Tribunal, Sagar bearing Claim Case No.20/2010 claiming an amount of Rs.23,22,000/- from the appellant. It was stated in the claim petition that on 13.07.2009 at around 1:00 PM the non-applicant nos.1 and 2 have reached their agricultural field and seized the agricultural instruments from the deceased; when the deceased came near the offending vehicle and prayed to return his agriculture instruments, then suddenly the non-applicant no.1/driver of the offending vehicle drove the Mahindra and Mahindra Classic Jeep bearing no. MP-02/AV-1562 in a rash and negligent manner and dashed against the deceased, due to which the deceased fell on the spot, sustained head injury and died on the spot. The deceased was rushed to the hospital, but all the efforts to escort the deceased remained unsuccessful. The matter was reported to PS Deori and Crime No.193/2009 was registered for the offences under Section 304-A of the Indian Penal Code. After investigation, the charge-sheet was submitted before the Judicial Magistrate First Class, Deori District- Sagar and Criminal Case No.1035/2009 was registered.

5. The claimants approached the learned Claims Tribunal by way of filing claim petition claiming Rs. 23,22,000/- as compensation. As per the claimants, the deceased used to earn Rs. 8 Lakhs from agriculture, Rs.15,000/- per month from Bidi work and Rs.5,000/- per month from grocery shop. The deceased was the sole bread winner of the family and the



family is hand to mouth after the demise of Shiv Prasad Gond. The non-applicants contested the claim on the ground that the son of the deceased Khuman Singh had encroached upon the forest land at Noradehi Vanmandal, Gram Barpani Class No. R.F. 12 and grown Soyabean over there. On the spot around 3 kgs seeds were laying which were seized by the respondents. It was further claimed that no accident was caused from the offending vehicle, the deceased was patient of lungs infection and he died natural death. No injuries were caused to the deceased out of the said accident, therefore, it was prayed that the claim application may be dismissed.

6. Basing on the pleadings of the parties, the Tribunal framed the following issues : -

"A. Whether the Respondent no.1, while driving the vehicle of ownership of Respondent no.3, has caused the accident on 13.07.2009 at around 1:00 PM at Gram Barpani, PS Deori, Sagar by vehicle bearing registration No.MP-02/AV-1562 by driving it in rush and negligence manner due to which Shivprasad Goud aged 50 years has died ?

B. Whether the deceased Shivprasad Gond was earning Rs. 10,40,000/- yearly ?

C. Whether the son of the deceased Khuman has encroached sowing soyabean upon forest land at gram Barpani, Class RF 212 ?

D. Whether no accident caused due to accident and a false case



under section 304 A IPC has been registered ?

E. Whether the claimant is liable to get the compensation amount of Rs. 23,22,000/- alongwith 18 % interest yearly ? if yes, then how ?

F. Relief and cost ?"

7. In order to establish the claim, applicant No.1 Radha Bai herself stepped into witness box as PW-1 and supported the contentions of the claim petition. In her deposition she stated that on the date of accident her husband got injured from rash and negligent driving of offending vehicle bearing registration No. MP-02/AV-1562, which caused him head injury and he died on the spot. Due to rash and negligent driving by respondent no. 1, the accident occurred. The deceased sustained various injuries. PW 2 Gorelal was also examined as eyewitness to the incident. He specifically stated that Shiv Prasad was about to start the agriculture work and during such time the vehicle "Digga" of the forest department reached on the spot which included 7-8 forest officers. The forest officers had seized the agriculture instruments and put in the Digga. The deceased requested them to leave for this time, but suddenly the driver started the offending vehicle which hit the deceased and he fell down.

8. On appreciation of evidence of PW-1 and PW-2 and placing reliance upon the documents exhibited, the learned Claims Tribunal, while passing the impugned order, in para 11 of the impugned order has come to the conclusion that the employees of forest department were reached the spot, on



the date of incident and have seized the agriculture instruments and soyabean seeds and put then in vehicle. When the deceased went near the offending vehicle asking to return back the seized articles, then non-applicant no.1 started the vehicle suddenly and drove it in rash and negligent manner, which caused injures to the deceased. After evaluating statements of all the witnesses and documents on record, the learned Tribunal passed an award granting compensation of Rs.1,35,200/- to the claimants.

9 . Being aggrieved with the award passed by the learned Tribunal, the appellant preferred the present appeal seeking to set aside the impugned award dated 22.12.2010 passed by the learned Claims Tribunal.

10. Learned Additional Advocate General Shri Nilesh Yadav appearing for the appellant submits that deceased Shiv Prasad was patient of lungs infection, which caused his death. The factum of accident was also denied. The Postmortem report clearly revels 2 fractures on head of the deceased. The reason assigned is regarding head injury on temporal region. The deceased was hospitalized twice and his treatment was going on. The medical evidence is duly supported by the testimony of both the eyewitnesses. The learned Counsel for the appellant submitted that impugned order passed by the learned Tribunal suffers from illegality and infirmity. It has been further contended that the claimants have failed to prove that the injuries were sustained during the accident or that incident took place. It was also argued that the findings of learned Tribunal are based on wrong assumption and it require interference by this Court, thus, the learned Tribunal has erred in allowing the claim application. Accordingly,



prayer is made to dismiss the appeal.

11. In view of the said legal position and on the basis of pleadings and the material placed on record before the learned Claims Tribunal, it is required to be analysed whether the finding of the claim Tribunal is just and perverse.

12. A perusal of the record of the criminal case and the evidence of the claimants create no doubt upon the accident taken place on 13.07.2009. The learned Tribunal while deciding the claim petition has categorically recorded that two eyewitnesses have supported the incident. It is expected from the officers of the forest department to inform and make the deceased understand the situation and to keep him away from the offending vehicle. In spite of this, the vehicle was started and began to roll, which caused injury to deceased. This shows total negligence on the part of non-applicant no.1 in driving the vehicle. There is no witness or document to bring on record the fact that the accident was not caused due to offending vehicle.

13. Apart from the above, it is also an admitted fact that the incident occurred in the month of July, which is a sowing session for the farmers. The story of the claimants also gets support from evidence. The appellants also required to issue notice to the deceased or his son for encroachment. No notice or any document has been brought on record to show encroachment. The forest officers are required to follow due process of law for removal of encroachment. The post mortem report also indicates two fractures on temporal region. All these series of events show that the accident caused due to negligence on the part of the driver of the offending vehicle.

14. The issue nos. 2 to 5 framed by the learned Tribunal deals with the



earning of the deceased. The Tribunal has rightly assessed Rs.2,000/- per month income for deceased. The claimants have failed to produce any document to support the income of the deceased. The Tribunal has also rightly held that both the sons are major and cannot be considered as dependent upon the deceased. There is no claim for enhancement on behalf of the claimant and therefore the amount awarded by the learned tribunal is satisfactory.

15. In view of the above discussion, the observation of the learned Tribunal contained in the impugned order sustained. The appellant is not entitled for any relief from this Court. In view of above, the present appeal fails and is hereby dismissed. No costs.

(HIMANSHU JOSHI)
JUDGE