

A ANITA DEVI AND ORS.

v.

SATYENDRA NARAIN SINGH AND ORS.
(Civil Appeal No.4291 of 2008)

JULY 10, 2008

B [DR. ARIJIT PASAYAT AND P. SATHASIVAM, JJ.]

Motor Vehicles Act, 1988 – s.166 – Fatal accident – Claim for compensation by dependants of the deceased – MACT came upon a finding that there was no concrete material regarding income of the deceased and awarded compensation by taking notional income of the deceased at Rs.15,000/- p.a – Affirmed by High Court – Plea of claimants that several documents were filed to establish the income of deceased which were not considered by MACT or High Court – Held: Records of MACT show that certain documents were filed which may throw light on the income aspect – Matter remitted to MACT with direction to consider the matter relating to income of the deceased and determine compensation afresh taking into account the documents already on record.

A petition for compensation in terms of s.166 of the Motor Vehicles Act, 1988 was filed by dependants of a person who died in a vehicular accident. The Motor Accidents Claims Tribunal (MACT) came upon a finding that there was no concrete material regarding income of the deceased and awarded compensation to the claimants by taking notional income of the deceased at Rs.15,000/- p.a. The award was affirmed by the High Court.

Before this Court, the appellants-claimants contended that several documents were filed to establish the income of the deceased and this aspect was not taken note of, either by the MACT or by the High Court.

Allowing the appeal, the Court

HELD:1.1 To test the correctness of the stand of the appellants that several documents were filed to establish the income of the deceased, the original records from MACT were called for. It appears from the records that certain documents have been filed. It is true that there are no copies of the income tax return or the assessment order. But the documents on record can certainly throw light on the income aspect. [Para 6] [666-G-H; 667-A]

1.2. The award of the MACT as affirmed by the High Court is set aside and the matter is remitted to MACT to consider the matter relating to income of the deceased and determine the compensation afresh taking into account the documents already on record. [Para 7] [667-A & B]

CIVILAPPELLATE JURISDICTION : Civil Appeal No. 4291 of 2008

From the final Judgment and Order dated 9.7.2004 of the High Court of Jharkhand at Ranchi in M.A. No. 155/2003

Deba Prasad Mukherjee, Arvind Kr. Lall and Nandini Sen for the Appellants.

A.K. Raina and Dr. Kailash Chand for the Respondents.

The Judgment of the Court was delivered by

Dr. ARIJIT PASAYAT, J. 1. Leave granted.

2. Challenge in this appeal is to the order passed by a Division Bench of the Jharkhand High Court, Ranchi dismissing the Miscellaneous application filed by the appellants under Section 173(1) of the Motor Vehicles Act, 1988 (in short the 'Act').

3. Case of the appellants, in a nutshell, is as follows:

Pramod Kumar (hereinafter referred to as the 'deceased') died in a vehicular accident in which Maruti Van bearing registration No.ER-14P-4320 was involved. The Maruti Van was being driven by respondent No.1 rashly and negligently. Initially,

A Pramod Kumar had sustained grievous injuries. He was first taken to the Government Hospital from which he was referred to Bokaro General Hospital where he had expired on 18.4.2000. The deceased was 37 years of age. The petition for compensation in terms of Section 166 of the Act was filed by the dependants of the deceased. The Motor Accidents Claims Tribunal (in short the 'MACT') on consideration of the materials placed before it held that claimants are entitled to compensation of Rs.1,39,808/-. Since the vehicle was the subject matter of insurance, the Oriental Insurance Co. Ltd. (hereinafter referred to as the 'insurer') was held liable for the compensation amount to the claimants alongwith interest @ 9% per annum from the date of filing of the application. It was found that there is no concrete material regarding the income of the deceased. However, it was held that notional income of Rs.15,000/- p.a. can be taken after deducting certain amounts for personal use. The contribution was fixed at Rs.10,216/- p.a. The multiplier of 13 was applied and Rs.5,000/- was also granted for loss of expectation of life and Rs.2,000/- for funeral expenses. An appeal was preferred by the claimants questioning correctness of the award, taking the stand that the quantum fixed was very low. High Court dismissed the appeal holding that there was no evidence of earning income.

4. In support of the appeal, learned counsel for the appellant submitted that several documents were filed to establish the income of the deceased. This aspect was not taken note of either by the MACT or the High Court.

5. Learned counsel for the respondents submitted that the appellants did not produce any definite material regarding income and the MACT was justified in taking the notional income.

6. To test the correctness of the stand of the appellants that several documents were filed to establish the income of the deceased, the original records from MACT were called for. It appears from the records that certain documents have been filed. It is true that there are no copies of the income tax return

or the assessment order. But the documents on record can certainly throw light on the income aspect. A

7. Above being the position, we set aside the award of the MACT as affirmed by the High Court and remit the matter to MACT to consider the matter relating to income of the deceased and determine the compensation afresh taking into account the documents already on record. B

8. The appeal is allowed in the aforesaid extent with no order as to costs.

B.B.B.

Appeal allowed.