

(2013) 10 AHC CK 0174
In the Allahabad High Court
Case No : F.A.F.O. (Defective) No. 282 of 2013

Bajrang Prasad

APPELLANT

Vs

Madhu Goel

RESPONDENT

Date of Decision : 25-10-2013

Acts Referred:

Citation : (2014) 1 AWC 576

Hon'ble Judges : Satish Chandra, J;Rajiv Sharma, J

Bench : Division Bench

Final Decision : Partly Allowed

Judgement

Satish Chandra, J.—Present appeal u/s 173 of the Motor Vehicles Act, 1988, has been preferred for the enhancement of the compensation, against the judgment and award dated 4.8.2012 passed by the Motor Accident Claims Tribunal, Lucknow in Claim Petition No. 474 of 2011. Bajrang Prasad and another v. Smt. Madhu Goel and another, whereby an award of Rs. 1.83,793 alongwith simple interest @ 6% has been awarded against the insurance company.

2. The brief facts of the case are that on 12.6.2011 at about 2.00 p.m., Km. Jyoti, was going alongwith her sister Neha to meet her friend. When they reached near over bridge, Nirala Nagar, from the opposite direction, a Car bearing No. U.P. 32 DR 5013 was coming, whose driver was driving it very rashly, negligently and dashed Km. Jyoti, who succumbed to injuries. The parents of the deceased have filed a claim petition before the Tribunal who after examined the entire evidence has awarded a compensation of Rs. 1,83.793 alongwith 6% interest from the date of filing of the claim petition. Not being satisfied, the claimant-appellant has filed the present appeal.

3. With this background, heard Sri Dev Kumar Tripathi, learned counsel for the appellant and Sri Tarun Kumar Mishra, learned counsel for the opposite party No. 2-insurance company.

4. After hearing both the parties and on perusal of record, it appears that the

accident is not in dispute. The Car in question was insured by the National Insurance Company-opposite party No. 2. The only dispute is pertaining to the quantum of the award.

5. The deceased was not working. So, the notional income off 3,000 per month was rightly taken by the Tribunal for the computation of the award, which comes to Rs. 36,000 per annum. The deceased was unmarried, so 50% is to be deducted. Thus, it comes to Rs. 18,000 per annum. 6. By looking the age of the parents, the multiplier of 11 was rightly applied. Thus, the plea of the learned counsel that the multiplier was wrongly applied, is not sustainable in the eye of law for the reason that no age proof was given. The certificate pertaining to the date of birth was neither genuine nor attested. The same was manipulated as observed by the Tribunal. The deceased was unmarried. So, the average age of the parents was rightly taken by the Tribunal.

7. Thus, by applying the multiplier of 11, compensation comes to Rs. 18,000 x 11 = Rs. 1,98,000. In addition Rs. 4,500 is to be awarded with respect to funeral expenses etc. Thus, total compensation comes to ? 1,98,000 + 4,500= Rs. 2,02,500 and the same will have to be paid alongwith interest @ 6% per annum from the date of filing of the claim petition before the Tribunal.

8. In view of above, we modify the impugned judgment and award dated 4.8.2012 passed by the Motor Accident Claims Tribunal, Lucknow in Claim Petition No. 474 of 2011 to the effect that the appellant-claimant is entitled for the compensation of Rs. 2,02,500 alongwith interest @ 6% per annum from the date of filing of the claim petition before the Tribunal.

9. Needless to mention that in the case of Mrs. Helen C. Rebello and Others Vs. Maharashtra State Road Transport Corpn. and Another, the Hon'ble Apex Court observed that compensation is not a source of profit or earning.

10. Accordingly, the insurance company (Opposite party No. 2) is directed to deposit the amount/remaining amount alongwith interest before the concerned Tribunal within a period of one month from the date of receipt of a certified copy of this order. The amount already deposited be adjusted. The registry of this Court is also directed to send the lower court record/money, if any, within a period of one month to the concerned Tribunal, who is further directed to disburse the same, in terms of the award within a period of three months thereafter.

11. In the result, the appeal filed by the claimant-appellant is partly allowed at the admission stage.