

(2001) 11 AHC CK 0011
In the Allahabad High Court

Divisional Manager, United India Insurance Company Ltd.	APPELLANT
Vs	
Bhagirathi Singh and Others	RESPONDENT

Date of Decision : 09-11-2001

Acts Referred:

Citation : (2002) 3 ACC 601

Hon'ble Judges : V.M. Sahai, J;Sudhir Narain, J

Bench : Division Bench

Judgement

Sudhir Narain, J.—This appeal is directed against the award dated 7.8.2001 passed by Motor Accident Claims Tribunal, Deoria awarding Rs. 1,72,000/- as compensation to claimant-respondents.

2. The claim petition was filed with the allegation that son of the claimant-respondent died in the accident caused on 4.10.1998 when he was going on his motorbike while truck bearing No. WB-03-2393 being driven rashly and negligently by the driver, hit the motor cycle on which son of the claimant-respondents aged about 24 years employed as Munshi of a contractor and had earning of Rs. 200/-per day.

3. The claim petition was contested by the appellant on various grounds.

4. The Tribunal recorded a finding that accident was caused due to rash and negligent driving of the driver in question. The vehicle in question was insured with the appellant Company and after taking into consideration the material evidence on record came to the conclusion that claimant-respondents were entitled for compensation of Rs. 1,72,000/-.

5. This order of the Tribunal has been challenged in the present appeal.

6. We have heard Mr. S.K. Mehrotra, learned Counsel for the appellant and Mr. V. Tiwari, learned Counsel appearing for the respondents. Learned Counsel for the appellant has submitted that it was not proved by the claimant-respondents that the vehicle in question was insured. We have perused the order. The claimant-

respondents had filed insurance policy. The appellant did not produce any evidence to show that the vehicle was not insured.

7. The learned Counsel for the appellant contended that it had got investigated the matter by its own person and he submitted a report that there was no such insurance policy filed before the Insurance Company but the appellant did not lead any evidence before the Tribunal that the insurance policy filed by the claimant-respondents was fake.

8. The learned Counsel for the appellant then urged that there was a contributory negligence on the part of the son of the claimant-respondents who was riding motorbike.

9. The Tribunal has recorded a finding that accident was caused due to rash and negligent driving of the truck driver and the driver of the motorbike was not shown negligent.

10. The next submission of the learned Counsel for the appellant that the deceased as a bachelor and quantum of compensation should be awarded after taking into consideration the age of the claimant and not the age of deceased.

11. We have perused the judgment and material placed before us. The findings do not suffer from any legal infirmity. We do not find that the amount awarded by the Tribunal is excessive.

12. The appeal is accordingly dismissed.

13. The amount of Rs. 25,000/- deposited with this Court by the appellant shall be remitted to the Tribunal concerned by the Registry within one month from today for being adjusted towards the amount payable by the appellants to the claimant-respondents.