
(2009) 07 AHC CK 0098
In the Allahabad High Court

I.C.I.C.I. Lombard General Insurance Co. Ltd.

APPELLANT

Vs

Ram Sevak and Others

RESPONDENT

Date of Decision : 01-07-2009

Acts Referred:

Motor Vehicles Act, 1988 — Section 163A

Citation : (2011) ACJ 948 : (2009) 4 AWC 4088 : (2011) 7 RCR(Civil) 1665

Hon'ble Judges : Uma Nath Singh, J;Amitava Lola, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Amitava Lola, J.—This is an appeal of the insurance company challenging the judgment and order passed by concerned Motor Accidents Claims Tribunal, Jaunpur dated 10.4.2009. The awarded amount of compensation is Rs. 4,15,000 alongwith the interest accrued thereon. The insurance company has proceeded with a plea that at the time of accident the deceased was aged about 24 years and unmarried. Therefore, the multiplier was applied taking into account the age of the parents and deduction of two third was made because of normally the bachelor is making more expenses towards himself than the family.

2. There are several judgments of the Supreme Court as well as Division Bench of this Court fixing the minimum amount of monthly income as Rs. 3,000 and deduction on the basis of the current income.

3. So far as the contention with regard to per month income of Rs. 3.000 is concerned, it has been contended by the learned Counsel appearing for the appellant that same is notional income. So far as notional income is concerned as per Second Schedule u/s 163A of the Motor Vehicles Act, 1988 (hereinafter in short called as the "Act") the same is Rs. 15,000. However, in the present case the application for compensation was made u/s 166 of the Act. Therefore, we have to arrive at "just" compensation under the principles following the scheme of Second Schedule. Upon going through said schedule we find that the same is

applicable in respect of the notional income under item No. 6 of the schedule for which no deduction is indicated in the schedule. Therefore, on one hand, in an extreme factual contradiction it is Rs. 3,000 and, on the other hand, deduction cannot be simultaneously. We have already held that there cannot be any deduction in respect of notional income as in the case of *The New India Assurance Company Limited Vs. Padam Singh, Smt. Munesh Devi and Satpal Singh*, Though the said case was in respect of minor, but so far as the notional income is concerned, this is a principle. So far as deduction is concerned, it has been contended by learned Counsel for the appellant that Supreme Court in several matters has directed the deduction of two third in the case of bachelor and/or unmarried person. My brother Judge (Uma Nath Singh, J.), has pointed out a very relevant question that the deduction will depend upon the condition of the family. If the father is an earning member, two third amount can be deducted but in case the father is non earning member then it can be presumed that responsibility of the deceased was more towards the family. Apart from that, in the rural areas like Jaunpur (U.P.), where the deceased was living and accident was caused, the family was nucleous family or joint family, is a big question. Normally, they are living in a Joint family depending upon themselves, therefore, even in such case deduction cannot be applicable. A deceased being bachelor spending more upon himself is a prediction or presumption not the principle. Therefore, only the principle can be ratio decidendi others are not.

4. Therefore, in totality we do not find any reason to interfere with the judgment impugned and order in this appeal passed by the Tribunal. Hence, the appeal is dismissed even at the stage of admission, however, without imposing any cost.

5. Incidentally, the appellant-insurance company prayed that the statutory deposit of Rs. 25,000 made before this Court for preferring this appeal be remitted back to the concerned Motor Accidents Claims Tribunal as expeditiously as possible in order to adjust the same with the amount of compensation to be paid to the claimants, however, such prayer is allowed.

Uma Nath Singh, J.

6. I agree.