(2006) 04 UK CK 0025

In the Uttarakhand High Court

Moolwati and Others APPELLANT

Vs

Uttaranchal Road Transport Corporation RESPONDENT

Date of Decision : 12-04-2006

Acts Referred:
Motor Vehicles Act, 1988 — Section 173

Citation : (2006) 3 ACC 919 : (2006) 2 UC 1103 : (2006) 1 UD 513

Hon'ble Judges : Rajeev Gupta, C.J;Prafulla C. Pant, J

Bench : Division Bench

Judgement

Rajeev Gupta, C.J.—Mr. B.S. Parihar, Advocate on behalf of Mr. Ram Kishor Arya, Advocate for the appellants.

Mr. A.N. Sharma, Advocate for the respondent.

They are heard on admission.

2. This is claimants'' appeal for enhancement of the compensation awarded by Motor Accident Claims Tribunal/District Judge, Udham Singh Nagar vide Award dated 13.1.2006 passed in MACP No. 213 of 2004.

3. The mother and brothers of deceased Sunil Kumar claimed compensation of Rs. 5,51,000 (Rupees five lakh and fifty one thousand only) for his death in the motor accident on 1.9.2004 when the bus bearing registration No. UP. 15E 7863, in which he was travelling with his sister from Nazibabad to Haridwar, met with an accident due to the rash and negligent driving of its driver and resulted in serious injuries to Sunil Kumar leading to his death. The claimants further pleaded that Sunil Kumar used to earn Rs. 4,000 per month by selling clothes.

4. Respondent Uttaranchal Road Transport Corporation contested the claim and pleaded that the accident did not occur on account of the negligence of the driver of the bus, but it was due to sudden failure of the steering and" as such, the Corporation is not liable to pay compensation to the claimants.

5. The Tribunal, on the evidence led by the parties, held that Sunil Kumar died on

account of the injuries sustained by him in the accident and that the accident occurred due to rash and negligent driving of the driver of the bus. The Tribunal, therefore, held respondent Uttaranchal Road Transport Corporation liable to pay compensation to the claimants. As the evidence led by the claimants about the income of the deceased was not found reliable, the Tribunal assessed his income at Rs. 2,500 per month and Rs. 30,000 per annum. By deducting 1/3rd of the said amount as his personal expenses, the claimants'' dependency was assessed at Rs. 20,000 per annum. By multiplying the annual dependency of Rs. 20,000 with the multiplier of 12, the compensation was worked out to Rs. 2,40,000. The Tribunal further awarded Rs. 2,000 towards funeral Expenses and Rs. 2,000 towards loss of estate. Thus, a total sum of Rs. 2,44,000 was awarded as compensation to the claimants for the death of Sunil Kumar in the motor accident. The Tribunal awarded interest at the rate @ 6% per annum from the date of the application i.e. 23.9.2004.

6. Mr. B.S. Parihar, the learned Counsel for the appellants vehemently argued that the Tribunal has erred in discarding the claimants'' evidence about the income of the deceased and in assessing his income at Rs. 2,500 per month only.

7. Though the claimants pleaded that deceased Sunil Kumar used to earn Rs. 4,000 per month by selling clothes, no reliable evidence was led before the Tribunal to establish the same. In this state of evidence, no fault can be found with the assessment of the income of the deceased by the Tribunal at Rs. 2,500 per month and Rs. 30,000 per annum. The multiplier of 12 selected by the Tribunal is rather on the higher side in view of the dictum of the Apex Court in the case of The Municipal Corporation of Greater Bombay Vs. Shri Laxman Iyer and Another, , wherein it has been held that in the cases where the claimants are parents, the multiplier of 10 only is appropriate.

8. Thus, we do not find any scope for enhancement of the compensation awarded by the Tribunal either on account of the income of the deceased or the claimants'' dependency assessed by the Tribunal or the multiplier selected.

9. The appeal filed u/s 173 of the Motor Vehicles Act, therefore, fails and is, hereby, dismissed summarily.