
(2001) 01 PAT CK 0026
In the Patna High Court
Case No : M.A. No. 149 of 1993

National Insurance Co. Ltd.	Vs	APPELLANT
Meena Devi and Another		RESPONDENT

Date of Decision : 18-01-2001

Acts Referred:

Employees Compensation Act, 1923 — Section 4
Motor Vehicles Act, 1988 — Section 167

Citation : (2001) 2 BLJR 1133 : (2001) 3 PLJR 39

Hon'ble Judges : S.N. Pathak, J

Bench : Single Bench

Judgement

S.N. Pathak, J.—This Misc. appeal has been filed by National Insurance Company. It was one of the defendants in M.V. Case No. 21/90.

2. One Meena Devi filed the aforesaid case under the Motor Vehicles Act claiming compensation for the death of her husband who was driver of one Ramdayal Singh. The husband of Meena Devi died while driving the Jeep of Ramdayal Singh. On the evidence on record contested by Ramdayal Singh, the Court held that the deceased was having monthly income of Rs. 1,000/- and he died at the age of 30 years in good health, Learned lower Court also computed the period of survival of the deceased at 60 years which, normal and average life span of a citizen of this country by established norms. So the learned lower Court (Claims Tribunal) calculated compensation to be paid to Meena Devi on the basis of monthly income of Rs. 1000/- for the period of 30 years which was the survival period of the deceased and assessed the amount of compensation at a lump sum of Rs. 3,60,000.

3. In this appeal, it was submitted by the appellant's lawyer that the case before the claims Tribunal was not maintainable because the alleged accident occurred on account of negligence of the deceased himself. However, the learned Tribunal used illegal multiplier and besides that under the Workmen's Compensation Act, admissible amount of maintenances came to Rs. 83,192/- u/s 4(a) of the

aforesaid Act.

4. So far as maintainability of the case before the Claims Tribunal concerned, I am to reference Section 167 of the Motor Vehicles Act, 1988 I am reproducing the provisions of the aforesaid section.

Notwithstanding any thing contained in the Workmen's Compensation Act, 1923 (8 of 1923), Where the death of, or bodily injury to, any person gives rise to claim for compensation under this Act and also under the Workmen's Compensation Act, 1923, the person entitled to compensation may without prejudice to the provision of Chapter X, claim such compensation under either of them Acts, but not under both.

So under the aforesaid provision of the Motor Vehicles Act, claimant was entitled to maintain a claim case before the Tribunal as also before the Commissioner of Workmen's Compensation Act. The claim before the Tribunal was, therefore, very well maintainable. Now so far the plea that the accident occurred due to the negligence on the part of the deceased, lower Court on the basis of the evidence held that the accident occurred without any fault on the part of the deceased. This question cannot be raised here now because no error was pointed but so far the finding of the lower Court to this effect is concerned. So far as quantum of compensation is concerned, I find that the Tribunal assessed the age of the deceased at the established average age of 60 years and then computed the question of compensation amount by multiplying monthly income of Rs. 1,000/- to 30 years which was remaining period of life span of the deceased. So amount of compensation was assessed by a simple method without using any multiplier.

5. Before concluding, I would like to refer to a decision referred to by the appellant's lawyer as reported in 1991 ACJ 691 and it was submitted that the case before the Tribunal was not maintainable, but I am hold that this decision referred to Section 110(A) of the Motor Vehicles Act. However, as I have already referred to above, Section 167 of the Act entitles the claimant to maintain a case under this Act as well. Another decision was referred to as reported in 1997 (I) LLJ 827. This decision was based on the fact that the accident occurred due to the negligence of the driver. So this decision is also not applicable.

6. In the result, I am to hold that the amount of compensation awarded by the Claims Tribunal to Meena Devi was perfectly justified and valid. It is not understandable how an amount of Rs. 3,60,000/- would be excessive in case of the death of the husband of the claimant who claimed it when the deceased died at the prime age of 30 years. Hence, this appeal has got no merit and it accordingly, dismissed.