
(2005) 09 AHC CK 0262
In the Allahabad High Court

New India Assurance Co. Ltd.

APPELLANT

Vs

Monu @ Nitin and Others

RESPONDENT

Date of Decision : 26-09-2005

Acts Referred:

Motor Vehicles Act, 1988 — Section 170

Citation : (2006) 1 ACC 71

Hon'ble Judges : R.P. Misra, J; Krishna Murari, J

Bench : Division Bench

Judgement

R.P. Misra, J.—Heard Mr. S.C. Srivastava, learned Counsel for the appellant.

2. This first appeal from order is directed against the award of Motor Accident Claims Tribunal.

3. The claimant/respondent No. 1 filed a petition claiming compensation of Rs. 30,04,000 on account of injuries caused to him in an accident. The case set up by the claimant-respondent was that on 13.11.2000 while he was going as a pillion rider on scooter belonging to one Salim, he was hit from behind by a bus which was insured with the appellant company which resulted in the death of Salim and serious injuries to him. It was also alleged that accident was caused due to rash and negligent driving by the driver of the offending vehicle. The Tribunal awarded a sum of Rs. 2,82,000 along with 6% interest as compensation.

4. The proceeding before the Claims Tribunal proceeded ex parte against the owner and driver of the offending vehicle. The Tribunal has granted permission u/s 170 of Motor Vehicles Act to the Insurance Company. It has been urged by the learned Counsel for the appellant that accident occurred due to negligence of the driver of the scooter and it was a case of contributory negligence, which has been illegally not considered by the Tribunal. It has further been urged that compensation awarded by the Tribunal is highly excessive.

5. We have gone through the impugned judgment. The Tribunal has recorded a finding of fact that accident occurred due to rash and negligent driving of the

offending vehicle. We find that this finding of the Tribunal is based on proper analysis of evidence brought on record and there appears to be no illegality in the same.

6. The Tribunal has awarded a sum of Rs. 70,000 towards medical expenses, Rs. 20,000 towards future medical expenses and another Rs. 10,000 towards miscellaneous expenses. The Tribunal has also allowed a sum of Rs. 20,000 towards mental suffering and the disability suffered by the claimant respondent. The Tribunal also found that the claimant was working as helper in Sagar coolers and drawing salary of Rs. 3,000 per month. On account of disability suffered by the claimant-respondent due to the accident he has suffered 20% loss, in his earning capacity. Thus in this manner, the total amount, of compensation determined by the Tribunal is 2,82,000. On a careful consideration of the entire facts and circumstances, we see no illegality in the same.

There is no force in the appeal and same is dismissed in limine. The amount deposited by the appellant in this Court be remitted back to the Tribunal within three weeks from today, to be adjusted towards the payment of the awarded amount to the claimant.