
(2010) 07 AHC CK 0148
In the Allahabad High Court

New India Assurance Co. Ltd.

APPELLANT

Vs

Smt. Urmila and Others

RESPONDENT

Date of Decision : 02-07-2010

Acts Referred:

Citation : (2010) 07 AHC CK 0148

Hon'ble Judges : Rakesh Sharma, J;Devi Prasad Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Heard learned Counsel for the appellant and Mr. Shakeel Ahmad Ansari, learned Counsel appearing on behalf of the respondents.

2. Present First Appeal From Order has been preferred against the award dated 22.11.2005, passed by the Motor Accident Claims Tribunal/Addl. District Judge (Ayodhya Prakaran), Lucknow in M.A.C. No. 248 of 2001.

3. In brief, an accident occurred on 13.1.2001 at about 6.30p.m. when the deceased Laxman Prasad alias Ram Lakhan had gone to purchase vegetable for his family from the market in Rajajipuram, Lucknow and while he was en route, a bus, bearing No. U.P. 32A-7198 coming from the side of Sabji Mandi hit the deceased who later on succumbed to the injuries. The dependents approached the tribunal by preferring claim petition.

4. A plea was taken that the income of the deceased was Rs. 2200/- per month and Rs. 1,000/- per month on account of part time job he was engaged. The tribunal framed issues and recorded a finding that the monthly income of the deceased was Rs. 3,000/- and after deducting 1/3rd in lieu of personal expenses, it comes to Rs. 2,000/-. Keeping in view the age of the deceased of 35 years, the tribunal applied the multiplier of 17 as per Schedule-11 of the Motor Vehicles Act. The deceased is survived by widow and five minor children.

5. While assailing the impugned award, solitary argument advanced by the

learned Counsel for the appellant is that the addition of Rs. 1,000/- as additional income by personal engagement is not sustainable as there is no evidence on record.

6. However, attention of this Court has been invited to a case reported in 2008 (2) TAC 394 (S.C.) Laxmi Devi and Ors. v. Mohammad Tabbar and Anr. where their Lordships of Hon''ble Supreme Court held that even notional income under the Motor Vehicles Act should not be less than Rs. 3000/- per month. It has been observed by Hon''ble Supreme Court that even an unskilled labourer earns Rs. 100/- per day and accordingly, the monthly income comes to Rs. 3,000/-. Their Lordships further held that the notional income of Rs. 1,500/- provided in the Second Schedule of the Motor Vehicles Act has become redundant by lapse of time and the Government of India should revise the same keeping in view the inflation and price index prevailing now-a-days.

7. In case the ratio of the judgment of Hon''ble Supreme Court in Laxmi Devi's case (supra) is taken into account, then while assessing the compensation, the tribunal could not have gone below Rs. 3,000/-. Reason may be different but the assessment cannot be less than Rs. 3,000/- even for a person who is skilled or semi-skilled or unskilled labourer. In view of above, the compensation awarded by the tribunal calculating the income of the deceased at the rate of Rs. 3,000/- per month does not seem to be excessive, unjustified and improper. There appears to be no good ground to interfere with the impugned award.

8. The appeal is devoid of merit. It is accordingly dismissed. The amount deposited in this Court shall be transferred to the tribunal forthwith and the appellant shall also deposit the remaining amount, if any within two months in the tribunal and the tribunal may proceed in terms of the award.