(2019) 08 UK CK 0167

In the Uttarakhand High Court

Case No : Appeal From Order No. 338 Of 2015

New India Assurance Company Limited — APPELLANT

Vs

Ratan Bahadur & Others — RESPONDENT

Date of Decision : 23-08-2019

Acts Referred:

Citation : (2019) 08 UK CK 0167

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Advocate : I.P. Kohli, Niranjan Bhatt

Final Decision : Dismissed

Judgement

Sudhanshu Dhulia, J

1. This appeal from order arises out of an award passed by the Motor Accident Claims Tribunal, Uttarkashi dated 27.04.2015 passed in MACP No. 04 of 2014, whereby a compensation of Rs.5,41,720/- (Rupees Five Lakh Forty One Thousand Seven Hundred Twenty only) has been awarded to the claimants.

2. Brief facts of the case are that on 02.09.2013 Smt. Radha Devi (deceased) was going from Harshil to Jhala in a Max Jeep bearing registration no. UA-09-5265 as a passenger. On the fateful day i.e. on 02.09.2013, the vehicle fell into the valley due to the rash and negligent driving of the driver, as a result of which, Smt. Radha Devi sustained grievous injuries and died on the spot.

3. A claim petition was filed by the claimants for compensation of Rs.15,98,000/- (Rupees Fifteen Lakh Ninety Eight Thousand only) on account of death of Smt. Radha Devi in a motor accident. It was alleged in the claim petition that the deceased was working as a daily labourer in Border Road Organization and was getting wages of Rs. 5,400/- (Rupees Five Thousand Four Hundred only) per month.

4. Written statements were filed by the owner of the vehicle, driver of the vehicle

as well as by the Insurance Company.

5. On the basis of the pleadings of the rival parties, the Motor Accident Claims Tribunal framed the following issues:-

"1. Whether on 02.09.2013 at about 7:30 P.M. when Smt. Radha Devi was going to Jhala from Harshil as a passenger in Vehicle No. UA-09-5265, due to rash and negligent driving by the driver, the vehicle met with an accident and fell down from the road, as a result of which, Smt. Radha Devi died on the spot?

2. Whether at the time of accident the vehicle in question was insured with respondent no. 3 The New India Insurance Company Limited and at the time of accident the driver was having valid and effective driving licence and the owner of the vehicle was having valid and effective documents of the vehicle?

3. Whether on account of death of Smt. Radha Devi, the claimants are entitled for any compensation, if yes, to what extent and from which of the respondents?"

6. While deciding issue no. 1, the learned Tribunal recorded a categorical finding that the accident occurred due to rash and negligent driving of the driver, as a result of which, Smt. Radha Devi died on the spot. This was clearly based on the evidence placed before the Tribunal in the form of PW-1 Ratan Bahudur who is the husband of the deceased and is an eyewitness of the incident, as he was also travelling along with the deceased in the said vehicle.

7. So far as issue no. 2 is concerned, the learned Tribunal came to the conclusion that at the time of the accident, except the driving licence, all the documents with regard to the vehicle in question were valid and effective and the vehicle was duly insured with the insurance company.

8. While deciding as to the amount of compensation, the learned Tribunal has recorded the finding that the claimants have not been able to prove the income of the deceased being Rs. 5,400/- (Rupees Five Thousand Four Hundred only) per month. Thereafter relying upon the Notification issued by the Rural Development Department, Government of India, by which the daily wage of a labourer has been fixed to Rs. 156/- per day, the learned Tribunal determined the monthly income of the deceased as Rs. 4,680/- (Rupees Four Thousand Six Hundred Eighty only) i.e. Rs. 56,160/- (Rupees Fifty Six Thousand One Hundred Sixty only) per annum. Out of this amount, the learned Tribunal deducted one-third of the amount towards personal expenses and fixed the annual dependency income of the deceased as Rs. 37,440/- (Rupees Thirty Seven Thousand Four Hundred Forty only). Thereafter considering the age of the deceased to be 46 years, a multiplier of 13 was applied and an amount of Rs. 4,86,720/- (Rupees Four Lakh Eighty Six Thousand Seven Hundred Twenty Only) was calculated. Apart from this, the learned Tribunal also awarded an amount of Rs. 5,000/- (Rupees Five Thousand only) towards funeral expenses and Rs. 50,000/- (Rupees Fifty Thousand only) towards loss of love and affection. Thus a total compensation of Rs. 5,41,720/- (Rupees Five Lakh Forty One Thousand Seven

Hundred Twenty only) was awarded by the Tribunal.

9. Though the learned Tribunal has categorically recorded that the driver of the vehicle was not having valid and effective driving licence, but the insurance company was directed to pay the compensation to the claimants and at the same time liberty was given to the insurance company to recover the amount of compensation from the owner of the vehicle. Aggrieved, the insurance company has filed the present appeal from order challenging the part of the award passed by the Tribunal, by which the insurance company has been directed to pay the amount of compensation to the claimants and then liberty was given to the insurance company to recover the amount of compensation from the owner of the vehicle.

10. Perused the award dated 27.04.2015 passed by the learned Motor Accident Claims Tribunal. This Court finds no illegality in the award passed by the learned Tribunal whereby the insurance company has been directed to pay the amount of compensation to the claimants and then the liberty has been given to the insurance company to recover the amount from the owner of the vehicle.

11. Consequently, no interference is called for by this Court. The appeal from order is liable to be dismissed and is hereby dismissed.

12. Let the entire amount along with the interest as directed by the Tribunal be deposited by the insurance company with the concerned Tribunal after adjusting the amount already deposited. After the entire amount is deposited by the insurance company, let the same be released in favour of the claimants within three weeks from the date of production of a certified copy of this order. The statutory amount of Rs. 25,000/- (Rupees Twenty Five Thousand only) be also remitted to the concerned Tribunal.

13. Let a copy of this judgment along with the lower court record be sent to the concerned Tribunal for onward compliance.