
(2013) 09 AHC CK 0203

In the Allahabad High Court

Case No : First Appeal from Order No. 2316 of 2007

New India Assurance Company Ltd.

APPELLANT

Vs

Smt. Ramvati and Others

RESPONDENT

Date of Decision : 25-09-2013

Acts Referred:

Citation : (2013) 9 ADJ 588 : (2014) 3 ALJ 83 : (2013) 101 ALR 376

Hon'ble Judges : Bharati Sapru, J

Bench : Single Bench

Advocate : Amit Manohar, for the Appellant; B.P. Singh, for the Respondent

Final Decision : Disposed Of

Judgement

Bharati Sapru, J.—Heard learned counsel for the appellant Sri Amit Manohar and Sri Bharat Pratap Singh learned counsel appearing on behalf of the claimants. This is an appeal by an Insurance company against the award of the Motor Accident claims Tribunal dated 30.5.2007 in M.A.C.P. No. 53 of 2006.

2. By the award, the tribunal has awarded a sum of Rs. 1,50,000/- to the claimants of Nahar Singh who met an accident on 11.1.2005. As a result of the accident, Nahar Singh received bodily injuries and had to undergo treatment. He filed his claim. During the pendency of his claim, Nahar Singh who was aged about 60 years died on 25.11.2006. The claim was pursued by his legal representative.

3. Learned counsel for the appellant has very strenuously argued that the claim filed by Nahar Singh would abate after his death and his legal representative would not receive anything at all because nothing would survive with his death much less the action under tort.

4. He has relied upon the provisions of Section 306 of the Indian Succession Act and he argues that the personal claims would not survive. However while examining this part of the matter, the tribunal has relied upon the decision of Full

Bench of Punjab and Haryana High Court in the case of Joti Ram and Others Vs. Chaman Lal and Others, , where this very question arose.

5. The Full Bench while examining the matter ruled that there is no doubt that the claim which related to the loss which affected the estate of the deceased would survive and the cause of action would continue and the heirs of the deceased would be entitled to be impleaded as legal representatives and proceed with the petition.

6. However in the same judgment, the Full Bench has also took a view that the loss suffered by him individually i.e. mental suffering and physical injuries and pain would not survive as they would come to an end. Therefore the legal heirs of the claimant would not be entitled to claim any sum towards that.

7. In the present case, the tribunal has clearly recorded that the original claimant Nahar Singh died approximately 22 months after the receiving injuries and therefore the injuries and pain and mental suffering suffered by him were over much before death. The tribunal has settled an amount of Rs. 50,000/- towards that.

8. The contention of the learned counsel for the appellant that the loss was individual loss and would not continue to be persuaded by his legal heirs and representative, is correct. However the other amount which have been calculated towards his estate would no doubt be the benefit of his heirs and legal representatives and particularly to his widow and therefore the amount of Rs. 1,50,000/- as awarded is reduced to Rs. 1,00,000/- alongwith interest of 9% p.a. An amount of Rs. 50,000/- which has been awarded towards mental pain, anguish and injuries is deleted. The contention of the learned counsel for the appellant to that extent is upheld.

9. In so far as the balance is concerned that there is no dispute on the facts that the accident took place with the insured vehicle and the driver was having a valid licence. The rest of the amount to be released to the claimant forthwith. Any amount which is over and above, is to be released to the claimants, may be released to the Insurance Company. The appeal is disposed of as above. No costs.