
(2011) 11 AHC CK 0029

In the Allahabad High Court

Case No : First Appeal From Order No. 3606 of 2011

Oriental Insurance Co. Ltd.

APPELLANT

Vs

Smt. Naima and Others

RESPONDENT

Date of Decision : 09-11-2011

Acts Referred:

Citation : (2012) 2 TAC 125

Hon'ble Judges : Sunil Ambwani, J;Kashi Nath Pandey, J

Bench : Division Bench

Advocate : V.C. Dixit, for the Appellant; R.K. Verma, for the Respondent

Final Decision : Dismissed

Judgement

Sunil Ambwani & Kashi Nath Pandey, JJ.—We have heard Shri V.C. Dixit, learned Counsel appearing for the Oriental Insurance Company Ltd. Shri R.K. Verma appears for respondent Nos. 1 to 8. The deceased was travelling in the bus operated by Uttaranchal State Road Transport Corporation, Haldwani Depot, (Bus No. UK 04/ PA 0018), from Dhampur to Najibabad. At about 11.30 a.m. on 21st May, 2010 the bus collided with a culvert (pulia), and overturned in a ditch. Several passengers received injuries. Shri Hanif Khan travelling in the bus died on the spot leaving his mother, widow and minor children including four daughters and two sons. The Accident Claims Tribunal has found that the bus was insured by the appellant and that the death took place due to negligence of the driver of the bus, who had a valid driving license. The age of the deceased was proved by way of parivar register. Although it is claimed that the deceased was of 42 years, since the second letter in parivar register was not clearly written, the Tribunal has found the age to be 42 years. Relying upon the ratio of judgment in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, , after deducting 5th amount towards personal expenses, the income was assessed at Rs. 28,800/- and applying the multiplier of 15 an amount of Rs. 4,32,000/- was worked out towards compensation for loss of wages; Rs. 5000/- for loss of physical pleasure and Rs. 5000/- for loss of company and Rs. 5000/-

for funeral expenses, totalling Rs. 4,47,000/- .

2. We do not find substance in the submission of learned Counsel for the appellant that the death due to accident was not proved and that taking into account the age for which there was no definite evidence, the deduction of 1/5th was not justified. His further contention that multiplier of 15 should not have been applied, instead of multiplier of 13 was required to be applied is also liable to be rejected.

3. The body of the deceased was found on the spot of the accident alongwith other passengers, who had suffered injuries. It was established by the oral evidence of P.W.2 Shamsheer, the conductor of the bus, that the vehicle had collided with a culvert driven rashly and negligently. One of the eye witness had identified the body of the deceased amongst the injured on the spot. The income of Rs. 3000/- is the minimum, which could be adopted, where no income has been proved. In our opinion the statutory record maintained under the Rules made under the U.P. Panchayat Raj Act, 1947, is a valid parivar register, the evidence to prove the age. The dependents included the mother, widow and six children and thus the deduction of personal expenses of 1/5th of the amount earned by the deceased was correctly adopted. In view of *Leela Gupta and Others Vs. State of Uttar Pradesh and Others*, , on the age of the deceased, the multiplier of 15 was also correctly applied. We do not find any good ground to interfere with the award and thus dismiss the appeal.

The amount of Rs. 25,000/- deposited as pre-condition of filing the appeal shall be remitted to the Tribunal within a month.