
(2002) 12 AHC CK 0039
In the Allahabad High Court

Oriental Insurance Co. Ltd.	Vs	APPELLANT
Smt. Shibhu Bai and Others		RESPONDENT

Date of Decision : 16-12-2002

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2003) 2 ACC 237

Hon'ble Judges : S.P. Srivastava, J;M.P. Singh, J

Bench : Division Bench

Judgement

S.P. Srivastava, J.—Heard the learned Counsel for the insurer appellant.

The insurer appellant feels aggrieved by the award of an amount of Rs. 2,02,000/- as compensation to the claimant on account of the untimely death of Sri Bante @ Om Prakash, the son of the claimant respondent No. 1, aged about 23 years in the accident involving the offending motor vehicle, a bus bearing registration No. UPT 4489.

2. The claimant had come up with a case that on 6.6.2000 Sri Bante @ Om Prakash, who was travelling by the aforesaid vehicle, died due to electric shock while he was loading some bundles of vegetables on the roof of the offending bus. The claimant further claimed that at the time of accident the deceased was earning a sum of Rs. 3,000/- per month from the business by selling vegetables etc.

3. The learned Counsel for the appellant has urged that taking into consideration the age of the deceased, the amount of compensation awarded by the Tribunal is excessive.

4. In this connection it may be noticed that the Tribunal proceeded to assess the income of the deceased as Rs. 1,500/- per month taking the same to be the notional income. The dependency was found to be Rs. 18,000/- per annum and multiplier of 11 was applied and awarded a sum of Rs. 1,98,000/- as just compensation and apart from that awarded a sum of Rs. 4,000/- towards funeral

expenses and thus the total compensation was assessed at Rs. 2,02,000/- which is just and proper and the same cannot be said to be excessive.

5. Learned Counsel for the appellant next submitted that the offending bus was not the proximate cause for the death of the deceased.

6. In this connection it may be noticed that the death of the deceased was caused while he was on the offending bus, by the electric shock while he was loading some bundles of vegetables on the roof of the offending bus and this accident took place only because of the negligence on the part of the driver of the offending vehicle who had stopped the bus just below the electric wire and allowed the deceased to go on the roof of the bus for loading some bundles of vegetables. The finding recorded by the Tribunal on this point is that the accident took place while use of the offending bus and due to negligence of the concerned. Thus it is apparent that the offending bus was the proximate cause of death of the deceased.

7. The learned Counsel for the appellant has tried to assail the findings of the Tribunal returned against it but has not been able to demonstrate that the findings can be taken to be suffering from any such legal infirmity which may justify an interference therein.

8. Taking into consideration the totality of the circumstances as brought on record, this appeal is totally devoid of merits, which deserves to be and is hereby dismissed in limine.

9. As prayed, the amount of Rs. 25,000/- deposited in this Court by the insurer-appellant u/s 173 of the Motor Vehicles Act be remitted to the Motor Accident Claims Tribunal concerned so that it may be disbursed to the claimant.