(2007) 08 AHC CK 0016

In the Allahabad High Court

Case No : F.A.F.O. No. 558 of 1982

Ramwati Devi APPELLANT

Vs

U.P. Transport Corporation and Others RESPONDENT

Date of Decision : 17-08-2007

Acts Referred:
Motor Vehicles Act, 1939 — Section 110D

Citation : (2007) 7 AWC 7650

Hon'ble Judges : Prakash Krishna, J

Bench : Single Bench

Advocate : Nishant Malhotra, for the Appellant;

Judgement

Prakash Krishna, J.—This appeal is u/s 110D of the Motor Vehicles Act against the judgment and award dated 29th of March, 1992, passed by the Motor Accident Claims Tribunal in Motor Accident Claim Petition No. 92 of 1980. The Appellant is claimant and has filed the present appeal for further enhancement of the compensation amount awarded by the judgment under appeal. The Claims Tribunal by the award under appeal has awarded a sum of Rs. 30,000 as compensation to the claimant Appellant for the death of Chunni Lal Sharma, the husband of the Appellant who died in a motor accident at the age of 36 years. Since the question of quantum of compensation is the only question involved in the appeal, it is not necessary to notice the other facts relating to the rash and negligent driving of the bus belonging to the U. P. State Road Transport Corporation, the Respondent No. 1 etc.

2. The deceased was aged about 36 years at the time of accident and was working as a class IV employee in the Municipal Board, Aligarh. The last salary drawn was Rs. 450 per month. It has also come on record that he was having a scooter and was in the pay scale of Rs. 185-4-225-5-250-6-300 and was getting total Rs. 381.50 at the relevant point of time. The Tribunal while calculating the compensation has taken into account that out of the aforesaid amount he was spending a sum of Rs. 300 per month in the family and rest of amount was being

spent by the deceased on himself. The Tribunal has held that if a sum of Rs. 30,000 is deposited in the fixed deposit with the bank, the claimant would get an interest at the rate of 10 per cent per annum and thus she would get regular income from the fixed deposit.

3. Shri Nishant Malhotra holding brief of Shri V. K. Gupta, advocate, has placed reliance upon a judgment of the Apex Court in General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others, in support of his submission that the Tribunal has not taken into consideration the future prospects of the deceased. Shri Sameer Sharma, on the other hand, learned Counsel for the Respondent No. 1 supported the impugned order.

4. Considered the respective submissions of the learned Counsel for the parties. A bare perusal of the judgment of the Tribunal shows that the Tribunal has completely overlooked the future prospects of the deceased. The deceased was admittedly in the employment as class- IV employee and there was prospect of his further promotion. The Apex Court in the General Manager, Kerala State Road Transport Corporation, Trivandrum (supra) has held that assessment of damages to compensate the dependants is beset with difficulties because from the nature of things it has to take into account many imponderables e.g., the life expectancy of the deceased and the dependants, the amount that the deceased would have earned during the remainder of his life, the amount that he would have contributed to the dependants during that period, the chances that the deceased may not have lived or the dependants may not live up to the estimated remaining period of their life expectancy, the chances that the deceased might have got better employment or income or might have lost his employment or income altogether. In this very case the deceased was getting Rs. 1,032 per month as income. While calculating the compensation, the Apex Court has estimated the monthly income at Rs. 2,000 as the gross income vide para 13 of the report. After taking the gross income at Rs. 2,000 a deduction of 1/3rd was made towards the personal living expenses and the balance amount was taken towards the contribution that would have been made by the deceased towards family. In case on hand, the Tribunal has already made deduction towards the personal expenses of the deceased and has arrived at a figure of Rs. 300. Applying the ratio as laid down by the Apex Court in the above case the monthly contribution to the family is taken at Rs. 600 per month and therefore the amount of compensation would be Rs. 60,000 instead of Rs. 30,000 as awarded by the Tribunal. Shri Sameer Sharma, the learned Counsel for the Respondents could not place any thing to dissuade this Court to take a different view.

5. In view of the above discussion, the appeal is allowed in part and it is held that the claimant Appellant is entitled for a sum of Rs. 60,000 as compensation which shall be payable by the Respondent No. 1, U.P.S.R.T.C., Aligarh.

6. There is another infirmity in the order of the Tribunal. The Tribunal while awarding the compensation has not awarded interest which is normal incidence in such cases. It is, therefore, held that the claimant shall be entitled to get 10

per cent per annum interest from the date of application to the date of actual payment. The amount, if any, already paid, the applicant shall be entitled for interest on that amount from the date of application to the date of actual payment.

7. The appeal is allowed in part with proportionate cost.

