

(2008) 08 UK CK 0006

In the Uttarakhand High Court

Case No : Appeal From Order No. 85 of 2008

Smt. Darshani Devi and Others

APPELLANT

Vs

The New India Assurance Company Ltd. and Others

RESPONDENT

Date of Decision : 27-08-2008

Acts Referred:

Motor Vehicles Act, 1988 — Section 163A, 173

Citation : (2008) 3 UC 1872

Hon'ble Judges : B.C.Kandpal, J

Bench : Single Bench

Advocate : Sri Vijay Khanduri, teamed, for the Appellant; Sri P.C. Maulekhi, Learned Counsel for Respondent No. 1 Sri Sarvesh Agarwal, Learned Counsel, for the Respondent

Final Decision : Dismissed

Judgement

Hon"ble B.C. Kandpal, J.—This appeal u/s 173 of the Motor Vehicles Act has been filed by the Appellants/claimants against the judgment and award dated 30.11.2007 passed by Motor Accident Claim Tribunal/District Judge, Chamoli in M.A.C. No. 8 of 2007.

2. Brief facts of the case are that on 18.12.2006, Sri Khushal Singh (deceased) was going on foot from Nand Prayag to Kasba Ghat on the side of the road. At about 04:30 p.m., a truck bearing registration No. UA04D/7421, which was being driven by its driver in a very rash and negligent manner, hit Khushal Singh due to which he died at the spot. At the time of the death, the deceased was 43 years of age and working as Divisional Forest Development Manager, Badrinath and also doing the agricultural work from which he used to earn Rs. 10,000/- per month. The claimants are the dependent upon the deceased, hence filed claim petition before the Tribunal for a sum of Rs. 15,10,000/- as compensation.

3. The opposite parties were issued notices and thereafter they have contested the claim petition by filing their separate written statement before the Tribunal

concerned. Thereafter, both the parties led evidence in support of their case. After hearing Learned Counsel for the parties and perusing the entire material available on record, the Tribunal decreed the claim petition for a sum of Rs. 6,16,028/- along with interest @ 5% from the date of filing the claim petition till the date of actual payment vide judgment and award dated 30.11.2007.

4. Feeling aggrieved by the aforesaid judgment and award, the claimants/appellants preferred this appeal before this Court for enhancement of the amount of compensation.

5. Heard Sri Vijay Khanduri, learned Counsel for Appellants, Sri P.C. Maulekhi, learned Counsel for the Respondent No. 1, Sri Sarvesh Agarwal, Learned Counsel for the Respondent No. 2 on the point of admission and perused the record.

6. I have perused the entire judgment and order passed by the Tribunal concerned. The Tribunal has discussed each and every point in great detail. The Tribunal after considering the evidence available on record has come to the conclusion that the accident took place due to rash and negligent driving of the driver of the truck in question. After having perused the evidence available on record, I am in total agreement with the finding recorded by the Tribunal in this regard. As far as the amount of compensation is concerned, the Tribunal assessed the monthly income of the deceased as Rs. 7,231/- as per the salary certificate filed by the claimants and after usual deductions, the deceased was getting Rs. 5,832/- per month and the annual income comes to Rs. 69,984/-. Further the Tribunal deducted 1/3rd towards personal expenses, then the total annual dependency of the claimants comes to Rs. 46,656/-. The Tribunal further considering the age of the deceased as 43 years adopted the multiplier of "13" as mentioned in the second schedule appended to Section 163-A of the Motor Vehicle Act, 1988. In this way, the amount of compensation comes to Rs. 6,06,528/-. Further the Tribunal awarded, a sum of Rs. 2,000/- towards funeral expenses, Rs. 2,500/- towards loss of estate and Rs. 5,000/- towards loss of consortium. Thus the total amount of compensation comes to Rs. 6,16,028/-. The amount awarded by the Tribunal is perfectly justified.

7. Having considered the arguments advanced by the Learned Counsel for the Appellant and after going through the material available on record before me, I do not find any infirmity or incorrectness in the impugned judgment and award dated 30.11.2007 passed by the Tribunal concerned. The amount of compensation awarded by the Tribunal is just and proper, in the eye of law. I also do not find any ground to interfere in the impugned judgment and award. The appeal lacks merit and is liable to be dismissed.

8. Accordingly, the appeal is dismissed at the admission stage.