
(2010) 01 AHC CK 0081
In the Allahabad High Court

Smt. Prema

APPELLANT

Vs

Sri Ram Baran and Others

RESPONDENT

Date of Decision : 19-01-2010

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2010) 01 AHC CK 0081

Hon'ble Judges : Devi Prasad Singh, J;Devendra Kumar Arora, J

Bench : Division Bench

Judgement

1. Heard learned Counsel for the appellant and learned Counsel for the respondents and perused the record.
2. Present appeal u/s 173 of the Motor Vehicles Act has been filed against the impugned award dated 7.9.2007, passed in Motor Accident Claim Petition No. 405 of 2002, decided by the Motor Accident Claims Tribunal, Lucknow.
3. In brief, the deceased Chandrashekhar, aged about 22 years, was working as a Cleaner. On 17.7.2002, while discharging his duty as Cleaner over truck No. UP 35/B 4558, he was asked to remove bricks lying adjacent to truck. When he was removing the bricks from road, because of negligence on the part of truck driver, the truck suddenly moved on and crushed Shri Chandrashekhar. In consequence thereof, Chandrashekhar succumbed to the injuries. A First Information Report was lodged under Crime No. 197/02 and the dependents of deceased Chandrashekhar filed a claim petition before the tribunal with assertion that the monthly income of the deceased was about Rs. 3,000/- per month and the family was dependent over his income. The tribunal had framed issue with regard to accident held on 17.7.2002 as well as the negligence on the part of the driver as well as the deceased. Issue No. 3 relates to insurance and issue No. 4 relates to driving licence.
4. On the basis of the evidence led by the parties, the tribunal recorded a finding that because of negligence on the part of the truck driver, the accident occurred

and the deceased succumbed to the injuries. The tribunal has assessed the income of the deceased at the rate of 28,800/- per month of which 1/3rd is Rs. 9,600/- and multiplier of 15 has been used resulting in total compensation to the tune of Rs. 1,44,000/-. Under Schedule 2 of the Motor Vehicles Act, 1/3rd should have been deducted from the personal expenses and 2/3rd should have been paid to the dependent of the deceased as compensation. However, just reverse has been done by the tribunal while deciding the quantum of the compensation. Error seems to be at the face of record.

5. Accordingly, we are of the view that the dependents of the deceased are entitled to the compensation to the tune of 2/3rd of the amount and 1/3rd may be deducted in lieu of personal expenses. Accordingly, after deducting 1/3rd in lieu of personal expenses out of Rs. 28,800/-, the annual income comes to Rs. 19,200/- and by using multiplier of 15, as per second schedule, the dependents of the deceased, i.e. the claimant seems to be entitled for an amount of Rs. 2,88,000/-. The tribunal has granted Rs. 2,000/- as funeral expenses and Rs. 2,500/- for loss of estate. The total compensation comes to Rs. 2,92,500/-. Accordingly, we are of the view that the appellant shall be entitled for compensation to the tune of Rs. 2,92,500/- along with interest at the rate of 7.5% as provided by the tribunal.

6. In view of above, the appeal is allowed in part. The impugned award dated 7.9.2007 is modified with the finding that the claimant shall be entitled for compensation to the tune of Rs. 2,92,500/- along with interest at the rate of 7.5%. In case any amount has been deposited, the same shall be remitted to the tribunal forthwith by the registry. The respondent insurance company shall deposit the entire amount under the award to the tribunal within a period of two months and the tribunal may proceed accordingly.