

(2003) 04 AHC CK 0104
In the Allahabad High Court
Case No : F.A.F.O. No. 914 of 2003

Smt. Shital Devi

APPELLANT

Vs

New India Assurance Co. Ltd. and Others

RESPONDENT

Date of Decision : 15-04-2003

Acts Referred:

Motor Vehicles Act, 1988 — Section 163A

Citation : (2003) 2 ACC 472 : (2004) ACJ 1070 : (2003) 3 AWC 2561 : (2004) 1 RCR(Civil) 72

Hon'ble Judges : S.P. Srivastava, J;K.N. Ojha, J

Bench : Division Bench

Advocate : A.K. Sharma, for the Appellant;

Final Decision : Dismissed

Judgement

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

2. The appellant has filed the present appeal u/s 173 of the Motor Vehicles Act, feeling aggrieved by the award of the Motor Accident Claims Tribunal, determining an amount of Rs. 1,77,000 (Rupees one lac and seventy seven thousands only) as just compensation, to which the wife and minor son of the deceased Durgesh Chandra and his father and mother were found entitled to on account of his untimely death in an accident involving the offending motor vehicle, a TATA Truck bearing registration No, U.P. 80Q 9964 which was being driven rashly and negligently.

3. The Motor Accident Claims Tribunal, on a careful consideration of the evidence and materials brought on record, has come to the conclusion that the deceased was aged about 23 years on the date of the accident and his income was Rs. 15,000 per annum. This finding was based on the provisions relating to the notional income as indicated in the schedule attached to the Motor Vehicles Act. The claim petition was filed u/s 163A of the Motor Vehicles Act.

4. The Tribunal had further recorded a finding that the offending Motor Vehicle, a

TATA Truck was being rashly and negligently driven resulting in a head-on collision with another motor vehicle a Tempo.

5. The learned counsel for the appellant has strenuously urged that there could be no occasion for disentitling the mother of the deceased from getting compensation.

6. In this connection, suffice it to say that the widow of the deceased had been examined as P.W. 1 in support of the claim petition. She had in unmistakable terms stated that the father of the deceased was employed as a teacher and had sufficient income of his own. It was further stated that neither her father-in-law nor her mother-in-law the present appellant was dependent on the deceased. P.W. 1 was not cross-examined on this aspect of the matter. Further no evidence was led which could, in any manner, lead to the inference that the present appellant and the father of the deceased were dependant on the income of the deceased in any manner whatsoever.

7. It may be noticed that the widow of the deceased had indicated that from much before his death, the deceased was living separately from his father and mother who were not contributing anything for the maintenance of the family of the deceased. The deceased was also not giving any amount to his father and mother who were living separately.

8. Taking into consideration the findings returned by the Tribunal against the present appellant, which findings could not be demonstrated to be vitiated in law, no justifiable ground can be said to have been made out for any interference.

9. Really no amount of money can compensate the injured feelings of the parents of the deceased or can compensate them for what they lost in Durgesh Chandra. When we come to calculate the loss in terms of money, it is pecuniary loss alone which is recoverable apart from general damages which can be awarded in such a case for pain and suffering alone. We have to confine ourselves to the hard matter of rupees and paisas which tinkle well but mingle ill with sentiments. When a claimant comes to the Court of law to realise compensation in such cases, the Court has to rise above sentimentalities and try to compensate the claimant not for the injured feelings but for his financial loss real and probable. An unhappy tragedy involving death cannot be allowed to become windfall of money to those who were not even the dependants of the deceased.

10. This appeal is totally devoid of merits, which deserves to be and is hereby dismissed.