courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 16/09/2026

(2008) 01 UK CK 0006

In the Uttarakhand High Court

Case No : Appeal from Order No. 289 of 2005

Sri Manohari Lal — APPELLANT

Vs

Motor Accident Claims Tribunal and Others — RESPONDENT

Date of Decision : 02-01-2008

Acts Referred:
Motor Vehicles Act, 1988 — Section 168, 173

Citation : (2008) 1 UC 541

Hon'ble Judges : Rajeev Gupta, C.J;J.C.S. Rawat, J

Bench : Division Bench

Advocate : D.C.S. Rawat, for the Appellant; M.K. Goel, for the Respondent

Judgement

Rajeev Gupta, C.J.—This is claimant''s appeal filed u/s 173 of the Motor Vehicles Act, 1988 for enhancement of the compensation awarded by the Motor Accident Claims Tribunal, Pauri Garhwal vide Award dated 06-04-2005 passed in M.A.C.T. No. 31 of 2001.

2. Appellant/claimant Manohari Lal, unfortunate husband of deceased Mayawati Agarwal, claimed compensation of Rs. 22,60,000/- for her death in the motor accident on 09-03-2004, when she was dashed by the offending vehicle Truck bearing registration No. UA12-5688 resulting in serious injuries to Mayawati Agarwal, who succumbed to those injuries on the spot itself. The claimant pleaded that his wife Mayawati Agarwal was getting salary of Rs. 13,882/- per month as Teacher in Junior High School, Badath.

3. The owner and insurer of the offending vehicle Truck contested the claim and denied their liability to pay compensation to the claimant. The insurer of the Truck took the plea that the deceased herself was responsible for the accident and the Truck was being plied in breach of the policy conditions. The owner of the Truck also took the plea that the deceased herself was responsible for the accident with the additional plea that the liability to pay compensation, if any, was that of the Insurance Company as his Truck was insured at the time of the

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/sri-manohari-lal-appellant-hash-...

accident.

4. The claimant examined himself as PW1 in support of his claim, whereas the owner and insurer of the offending vehicle Truck did not examine any witness in rebuttal.

5. The Tribunal, on a close scrutiny of the evidence led before the Tribunal, held that claimant''s wife deceased Mayawati Agarwal died on account of the injuries sustained by her in the motor accident on 09-03-2004; the accident occurred due to the rash and negligent driving of the driver of the Truck; and as the Truck was insured with the Insurance Company, the Insurance Company was liable to pay compensation to the claimant.

6. The Tribunal, considering the evidence led by the claimant about the income of the deceased and the age of the deceased and her claimant husband, assessed the compensation at Rs. 3,26,000/-. The Tribunal further directed the Insurance Company to pay interest at the rate of 9% in the event of its failure to deposit the above amount of compensation of Rs. 3,26,000/- before the Tribunal within a period of two months from the Award.

7. Mr. D.C.S. Rawat, the learned Counsel for the Appellant submitted that the Tribunal has erred in awarding low compensation of Rs. 3,26,000/- only; in not awarding any sum towards Funeral Expenses, Loss of Consortium and Loss of Estate to the claimant; and in directing only conditional payment of interest on the above amount of compensation in the event of failure of the Insurance Company in depositing the amount of compensation within a period of two months from the date of the Award before the Claims Tribunal.

8. Mr. M.K. Goyal, the learned Counsel for Respondent No. 2 New India Insurance Company Ltd., on the other hand, supported the Award and submitted that the compensation of Rs. 3,26,000/-, awarded by the Tribunal, is just and proper in the facts and circumstances of the case.

9. The findings recorded by the Tribunal that Appellant''s wife Smt. Mayawati Agarwal died on account of the injuries sustained by her in the motor accident on 09-03-2004; the accident occurred due to the rash and negligent driving of the driver of the offending vehicle Truck; and the Insurance Company was liable to pay compensation to the claimant have now attained finality as the Respondents have not filed any appeal against the Award. That apart, there is sufficient evidence available on record in support of the above findings recorded by the Tribunal. We, therefore, affirm the findings recorded by the Tribunal in that behalf.

10. In a motor accident claim case what is important is that the compensation to be awarded by the Courts/Tribunal should be just and proper compensation in the facts and circumstances of the case, ft should neither be meager amount of compensation nor a bonanza arising out of the accident. The Apex Court, in the case of The Divisional Controller KSRTC v. Mahadeva Shetty and Anr. reported in AIR 2003 SCW 3797, observed in para 15:

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/sri-manohari-lal-appellant-hash-…

15. It has to be kept in view that the Tribunal constituted under the Act as provided in Section 168 is required to make an award determining the amount of compensation which to it appears to be "just". It has to be borne in mind that compensation for loss of limbs or life can hardly be weighed in golden scales. Bodily injury is nothing but a deprivation which entitles the claimant to damages. ''I he quantum of damages fixed should be in accordance with the injury. An injury may bring about many consequences like loss of earning capacity, loss of mental pleasure and many such consequential losses. A person becomes entitled to damages for mental and physical loss, his or her life may have been shortened or that he or she cannot enjoy life, which has been curtailed because of physical handicap. The normal expectation of life is impaired. But at the same time it has to be borne in mind that the compensation is not expected to be a windfall for the victim. Statutory provisions clearly indicate that the compensation must be "just" and it cannot be a bonanza; not a source of profit but the same should not be a pittance. The courts and tribunals have a duty to weigh the various factors and quantify the amount of compensation, which should be just. What would be "just" compensation is a vexed question. There can be no golden rule applicable to all cases for measuring the value of human life or a limb. Measure of damages cannot be arrived at by precise mathematical calculations. It would depend upon the particular facts and circumstances and attending peculiar or special features, if any. Every method or mode adopted for assessing compensation has to be considered in the background of "just" compensation which is the pivotal consideration. Though by use of the expression "which appears to it to be just", a wide discretion is vested in the Tribunal, the determination has to be rational, to be done by a judicious approach and not the outcome of whims, wild guesses and arbitrariness. The expression "just" denotes equitability, fairness and reasonableness and non-arbitrariness. If it is not so, it cannot be just. See Mrs. Helen C. Rebello and Others Vs. Maharashtra State Road Transport Corpn. and Another, .

11. The Apex Court in the case of Tamil Nadu State Transport Corporation Ltd. Vs. S. Rajapriya and Others, , observed in paras 8 to 10:

8. The 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 together.

9. The manner of arriving at the damages is to ascertain the net income of deceased available for the support of himself and his dependants and to deduct therefrom such part of his income as the deceased was accustomed to spend

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/sri-manohari-lal-appellant-hash-…

upon himself, as regards both self-maintenance and pleasure and to ascertain what part of his net income the deceased was accustomed to spend for the benefit of the dependants. Then that should be capitalized by multiplying it by a figure representing the proper number of years'' purchase.

10. Much of the calculation necessarily remains in the realm of hypothesis "and in that region arithmetic is a good servant but a bad master" since there are so often many imponderables, in every case "it is the overall picture that matters" and the court must try to assess as best as it can the loss suffered.

12. Reverting to the present case, claimant Manohari Lal (husband) was 60 years of age at the time of the accident, whereas his wife Mayawati Agarwal was 58 years of age and though had retired from service as Teacher, was allowed to continue till the end of the academic session. In this view of the matter, the Tribunal ought to have assessed the compensation on the basis of the pension payable to the deceased and not on the basis of the salary, which she was drawing inspite of her retirement, as she was allowed to continue in service for few months more till the end of the academic session. If the compensation is to be worked out on the basis of the pension, we are of the opinion, compensation of Rs. 3,26,000/-, awarded by the Tribunal, is just and proper compensation in the facts and circumstances of the present case. Though the Tribunal appears to have committed mistake in deducting 1/3rd again on account of the lump sum payment of the compensation, we are satisfied that the amount of compensation of Rs. 3,26,000/- determined by the Tribunal, is just and proper compensation to the claimant Manohari Lal (husband), who was 60 years of age at the time of the accident, for the death of his wife Mayawati Agarwal aged about 58 years, a retired Teacher on the date of the accident. We, therefore, do not find any scope for enhancement of the compensation either on account of the income of the deceased or the claimant''s dependency assessed by the Tribunal or the multiplier selected.

13. The Tribunal, while assessing the compensation of Rs. 3,26,000/- payable to the claimant, certainly lost sight of the fact that the claimant was entitled to receive reasonable sum towards Funeral Expenses, Loss of Consortium and Loss of Estate. In our opinion, a sum of Rs. 5,000/- towards Funeral Expenses; Rs. 5,000/- towards Loss of Consortium; and Rs. 5,000/- towards Loss of Estate deserve to be awarded to the claimant under these Heads. We, therefore, award Rs. 5,000/- towards Funeral Expenses; Rs. 5,000/- towards Loss of Consortium; and Rs. 5,000/- towards Loss of Estate. The claimant, as such, becomes entitled to get Rs. 15,000/- in addition to the amount of Rs. 3,26,000/- awarded by the Tribunal.

14. The Tribunal, by directing conditional payment of interest to the claimant in the event of the failure of the Insurance Company to deposit the amount of compensation of Rs. 3,26,000/- within a period of two months from the date of the Award, has deprived the claimant of the amount of interest, to which the claimant otherwise was entitled. With a view to avoid any possible delay in the

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/sri-manohari-lal-appellant-hash-…

compensation of interest on the amount of compensation by the Tribunal and any possible dispute about the period for which the claimant is entitled to get interest, we deem it proper to quantify the amount of interest ourselves.

15. The accident, in the present case, took place on 09-03-2004 and the claimant filed the claim petition on 19-04-2004. The impugned Award was passed by the Tribunal on 06-04-2005 and the Insurance Company deposited the amount of compensation of Rs. 3,26,000/- before 04-06-2005 before the concerning Claims Tribunal. Taking all the above-mentioned relevant factors into consideration, we quantify the amount of interest, payable to the claimant/at Rs. 20,000/-.

16. For the foregoing reasons, the appeal, filed by the Appellant u/s 173 of the Motor Vehicles Act, 1988 for enhancement of the compensation, is allowed in part. The compensation of Rs. 3,26,000/-, awarded by the Tribunal, is enhanced Rs. 3,41,000/- (Rupees Three Lakhs and Fourty One Thousand only) with further quantified amount of Interest of Rs. 20,000/-.

17. Respondent No. 2 New India Insurance Company Ltd. is directed to deposit the enhanced amount of Rs. 15,000/- and the quantified Interest of Rs. 20,000/- within a period of two months from today before the concerning Claims Tribunal.

18. No order as to costs.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/sri-manohari-lal-appellant-hash-…