
(2011) 07 UK CK 0134
In the Uttarakhand High Court
Case No : A.O. No. 391 of 2008

Sri Purushottam Singh and Others

APPELLANT

Vs

Sri Ravindra Bajaj and Another

RESPONDENT

Date of Decision : 12-07-2011

Acts Referred:

Motor Vehicles Act, 1988 — Section 166, 173

Citation : (2012) 2 UC 985 : (2011) 2 UD 212

Hon'ble Judges : Brahma Singh Verma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

B.S. Verma, J.—This appeal u/s 173 of the Motor Vehicles Act, 1988 (for short the Act) is directed against the impugned award dated 29-3-2008 passed by the Motor Accident Claims Tribunal/Additional District Judge, Kashipur, district Udham Singh Nagar (for short the Tribunal), whereby the claimant-Appellants have been awarded compensation of Rs. 1,02,000/- payable by the opposite party-Respondent No. 2-New India Assurance Company and a rider has been put on the Insurance Company that in case the compensation is not paid within two month, the claimants shall be entitled to the interest @ 9% per annum.

2. Relevant facts, giving rise to the present appeal, in brief, are that the Appellants-claimants filed a claim petition u/s 166 of the Act before the Tribunal alleging therein that the father of the claimants- Shiv Charan Lal lost his life in a motor vehicle accident which occurred on 30-5-2006 at 10-30 a.m. due to rash and negligent driving by the driver of ill-fated bus No. DBP-2004. The report of the accident was lodged with the police on 30-5-2006 and a criminal case was also registered at Crime No. 2425/2006 against the driver of the vehicle. It was also alleged that the deceased was a healthy person aged 69 years and was earning Rs. 5000/- from agriculture and dairy work. It was alleged that the opposite party No. 1 is the owner of the vehicle and the opposite party No. 2 is the insurer of the vehicle with whom the vehicle in question is insured. The

claimants filed claim petition for compensation of Rs. 10 Lakhs.

3. Both the opposite parties have filed their written statements and contested the claim petition on different grounds mentioned in their written statements.

4. On the pleadings of the parties, the learned Tribunal framed as many as seven Issues in the case.

5. The claimants filed documentary as well as oral evidence in the claim petition. The opposite party did not adduce oral evidence but has led documentary evidence. The Insurance Company has examined Chandra Pal Tomar as D.W.1 in support of its case.

6. The learned Tribunal after hearing both the parties and on perusal of evidence of the parties came to the conclusion that the deceased Shiv Charan Lal lost his life due to the injuries suffered by him in the motor vehicle accident, which was result of rash and negligent driving by the driver of the ill-fated vehicle. The learned Tribunal also found that the driver of the vehicle was having a valid and effective driving licence on the date of accident. Learned Tribunal also came to the conclusion that the Insurance Company is liable to pay compensation. On the point of quantum of compensation, the learned Tribunal took the notional income of the deceased as Rs. 30,000/- per annum and after deducting 1/3rd towards his personal expenses, the annual loss of dependency was held to be Rs. 20,000/- and considering the age of the deceased on the basis of the post mortem report, the learned Tribunal has applied multiplier of 5 to work out the compensation. Learned Tribunal also awarded Rs. 2,000/- towards funeral expenses and ultimately awarded a sum of Rs. 1,02,000/- as compensation to the claimants as mentioned in the impugned order dated 29-3-2008.

7. Aggrieved by the impugned award, this appeal has been preferred by the claimants for enhancement of compensation.

8. It is pertinent to mention here that no cross-objection or appeal has been preferred by the Insurance Company in this appeal against the impugned award.

9. Learned Counsel for the Appellants has contended that the learned Tribunal has erred in taking the notional income of the deceased at Rs. 30,000/- instead of Rs. 36,000/- as has been fixed by the Division Bench of this Court. Learned Counsel has further argued that since the dependents of the deceased are four in number, therefore, in view of the law laid down in the case of Smt. Sarla Verma and Ors. v. Delhi Transport Corporation and Anr. 2009 (3) Supreme 487, the deduction towards personal expenses shall be 1/4th as has been held in paragraph No. 14 of the judgment.

10. The argument of the learned Counsel has force. The Tribunal ought to have taken notional income of Rs. 36,000/- per annum as has been settled by a Division Bench of this Court in the case of Smt. Mayawati and Ors. v. New India Assurance Company Ltd. and Anr. 2006 (2) U.D. 657 and after deducting the 1/4th amount towards personal expenses of the deceased, the annual loss of

dependency comes to Rs. 27,000/-

11. So far as the multiplier of 5 adopted by the learned Tribunal is concerned, there is no error because the age of the deceased has been mentioned by the claimants to be 69 years. In this view of the matter, the claimants-Appellants are entitled to get compensation of Rs. 27,000/- x 5 : Rs. 1,35,000/- in addition to funeral expenses amounting to Rs. 2,000/-. Thus, the claimants-Appellants are entitled to compensation of Rs. 1,37,000/- payable by the Insurance Company.

12. So far as the interest part is concerned, the Tribunal has passed conditional order that in case the compensation is not paid within a period of two months, the claimants shall get interest @ 9% per annum, which is not proper. In my view, considering the bank rate of interest at the relevant period, the claimant-Appellants shall get simple interest @ 6% per annum from the date of application i.e. 17-8-2006 till the date of payment.

13. For the reasons and discussion above, the appeal deserves to be partly allowed.

14. The appeal is partly allowed. The impugned award dated 29-3-2008 is modified to the extent that the claimant-Appellants shall be entitled to compensation of Rs. 1,37,000/- payable by the Respondent No. 2-Insurance Company, instead of Rs. 1,02,000/- as awarded by the Tribunal. The claimant-Appellants shall also be entitled to simple interest @ 6% per annum from 17-8-2006 till the date of payment.