
(2009) 07 AHC CK 0311
In the Allahabad High Court

State of U.P. and Another

APPELLANT

Vs

Smt. Rehana Begum and Another

RESPONDENT

Date of Decision : 17-07-2009

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2009) 4 AWC 4145

Hon'ble Judges : Satish Chandra, J;Devi Prasad Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Satish Chandra, J.—Heard Sri Pramod Kumar, learned Counsel for the appellants and Mohd. Ahtisham Khan, learned Counsel for the respondents.

2. This appeal has been filed u/s 173 of the Motor Vehicles Act against the judgment and order in Claim Petition No. 201 of 2002, passed by Motor Accident Claims Tribunal, Sultanpur on 7.9.2004.

3. The brief facts of the case are that on 23.7.2002 at about 6.30 p.m. late Sri Mohd. Anwar was coming from Sahabganj. The driver of Police Truck No. U.P.-44-A/5202 was driving truck negligently and hit Mohd. Anwar, who sustained grievous heart. Mohd. Anwar was shifted to the hospital and next day he died in Medical College, Lucknow. Mohd. Anwar was the student of the Class-V and was aged about 10 years.

4. The Tribunal has awarded total compensation of Rs. 1,00 lac. The deceased Mohd. Anwar was child of ten years of age so his notional income was about Rs. 15,000 per annum. By deducting 1/3rd, for the purpose of compensation the income was taken 10,000 per annum. By applying multiplier of 15 a compensation was awarded to Rs. 1,50,000 in addition to that Rs. 2,000 was given for funeral charges and Rs. 3,000 for medical charges. Thus, the total compensation of Rs. 1,55,000 was paid to the claimants.

5. During the course of argument, the learned Counsel for the appellants stated that the Truck No. U.P.-44-A/5202 belongs to Superintendent of Police, which was engaged in carrying the prisoners from the jail of Sultanpur to the District Court of Barabanki. The said truck was never involved in the accident. He submitted that the truck was returned to Sultanpur at about 6.30 p.m. then it is not possible to be present at 6.30 p.m. at the site of accident. Hence, there is no question of involvement of the said truck in the said accident. For the purpose, he relied on the statement of Sri Raj Narain Singh, driver of the truck.

6. On the other hand, the counsel for the claimants relied on the judgment and order of the Tribunal.

7. After hearing both the parties and from perusal of the record it appears that the child Mohd. Anwar met with an accident on 23.7.2002 at about 6.30 p.m. in the market of Sahabganj. On the next date 24.7.2002, the deceased (Mohd. Anwar) died in the Medical College, Lucknow. The plea of the appellants is that the police truck never met with an accident as per the statement of Sri Raj Narain Singh, the driver of the truck (D.W. 1). But fact remains that the truck in question was engaged in carrying the prisoners from Sultanpur jail to the District Court of Barabanki. The Court's time are 10.00 a.m. to 4.00 p.m. and only after that prisoners can be taken. The driver has admitted that the journey is for about two and half hours only. If he had stated at 4.00 p.m. from District Court, Barabanki then he might have reached Sultanpur jail at about 6.30 p.m. The site of the accident is just 2, 3 kilometres before the Sultanpur jail. Hence, it cannot be ruled out that truck was present at the site of accident at about 6.30 p.m. Moreover, independent witness Sri Shiv Kumar Tewari (P.W. 2) has submitted in his statement that the police truck No. U.P. 44-A/5202 has hit the child in the said accident. Lastly, it appears that the police department has issued charge-sheet after necessary investigation against driver Sri Raj Narain Singh pertaining to said accident.

8. In these circumstances, we are convinced that police truck No. U.P. 44-A/5202 was involved and responsible for the accident. The driver, on the said date and time it met with an accident by which Mohd. Anwar got injured and ultimately died in the hospital. So appellants are responsible for the said accident. Quantum is not in challenge. No other plea was taken. Hence, we uphold the impugned order passed by Motor Accident Claims Tribunal, Sultanpur.

9. Needless to mention that there are some aspects of human life which are capable of monetary measurement, but the totality of human life is like the beauty of sunrise or the splendor of the stars, beyond the reach of monetary tape-measure. The determination of damages for loss of human life is an extremely difficult task and it becomes all the more baffling when the deceased is a child and/or a non-earning person. The future of a child is uncertain. Where the deceased was a child, he was earning nothing but had a prospect to earn. The question of assessment of compensation, therefore, becomes stiffer. The figure of compensation in such cases involves a good deal of guesswork. In

cases, where parents are claimants, relevant factor would be age of parents.

10. In cases of young children of tender age, in view of uncertainties abound, neither their income at the time of death nor the prospects of the future increase in their income nor chances of advancement of their career are capable of proper determination on estimated basis. The reason is that at such an early age, the uncertainties in regard to their academic pursuits, achievements in career and thereafter advancement in life are so many that nothing can be assumed with reasonable certainty. Therefore, neither the income of the deceased child is capable of assessment on estimated basis nor the financial loss suffered by the parents is capable of mathematical computation.

11. In the light of above discussions, we find no reason to interfere with the impugned order of the Tribunal.

In the result, the F.A.F.O. is hereby dismissed.