
(2017) 08 UK CK 0019
In the Uttarakhand High Court
Case No : 491 of 2015

The New India Assurance Co. Ltd.

APPELLANT

Vs

Smt. Maharani Devi & Others

RESPONDENT

Date of Decision : 11-08-2017

Acts Referred:

Citation : (2017) 08 UK CK 0019

Hon'ble Judges : Servesh Kumar Gupta

Bench : Single Bench

Advocate : I.P. Kohli, Siddhartha Sah

Final Decision : Allowed

Judgement

1. The judgment and order dated 15.7.2015 rendered by the learned Tribunal in MACP No. 32/2014 has been assailed by the insurer-New India Assurance Company Limited.

2. The accident occurred on 05.9.2012 at around 10:30 PM on the Khatima-Jhankat road, which is a highway leading to the Tanakpur. The deceased Shri Satpal, aged about 37 years, borne on his motorcycle UA03-0550 was dashed by a car no. UK06/W-1806 and as a consequence, he died at the spot. So, his dependants (the wife and four children) presented the petition claiming the compensation to the tune of Rs. 10 lakhs, whereagainst the learned Tribunal has granted Rs. 5,47,800/- along with 7.5% per annum from the date of institution of the petition to that of actual payment.

3. The appellant has agitated the impugned judgment on the ground that this accident occurred on account of the contributory negligence of the motorcycle borne a man Mr. Satpal. Such negligence has been proved by none other but the witness of claimants themselves PW2 Shri Jeewan Singh, who was an ocular witness. He has

deposed that the car overtook his motorcycle, so, this accident occurred between

the motorcycle of the deceased and the car in the middle of the highway from front. DW1 Shri Mandeep Singh, the owner as well as the driver of the car also has corroborated the deposition of Shri Jeewan Singh that motorcyclist Mr. Satpal swerved from his left side causing such accident.

4. The learned counsel of the claimant Mr. Siddhartha Sah has tried to negate the contributory negligence on the ground that charge sheet has been submitted by the Khatima Police against the driver of the car.

5. I am of the view that merely submission of the charge sheet in the court against the driver of the car by itself does not attribute the whole responsibility of the car driver. Looking to the deposition of PW2 Shri Jeewan Singh as corroborated by PW1 Shri Mandeep Singh, I apportion atleast 25% responsibility on the motorcyclist Mr. Satpal.

6. As far as the calculation of the compensation taking the base income Rs. 4,400/- per month, I find no infirmity in the same because the deceased was working as a beat watcher in the Uttarakhand Forest Department.

7. In view of what has been set forth above, I slash the whole compensation of Rs. 5,47,800/- as granted by the Tribunal by 1/4th making it to Rs. 4,10,850/-, whereagainst 6% interest only shall be leviable on the Insurance Company from the date of institution of the petition to that of payment.

8. After calculation, rest of the money shall be deposited in the Tribunal. Compulsory statutory amount deposited by the appellant shall also be remitted back to the Tribunal.

9. The appeal is hereby allowed with the modification of the award as indicated above.

10. LCR be sent back.