

(1997) 01 AHC CK 0080

In the Allahabad High Court

Case No : First Appeal From Order No. 180 of 1983

Union of India

APPELLANT

Vs

Sumitra Devi

RESPONDENT

Date of Decision : 21-01-1997

Acts Referred:

Citation : (1997) 01 AHC CK 0080

Hon'ble Judges : B.M.Lal, J and R.K.Singh, J

Final Decision : Dismissed

Judgement

R.K. Singh, J.—This appeal arises out of the award passed by Motor Accident Claims Tribunal, Meerut in motor accident claims case No. 207 of 1975.

2. The appellant Union of India was opposite party before the claims tribunal against which a sum of Rs. 1, 30, 000 has been awarded as compensation on account of death of Ram Kishan whose heirs have presented the claim petition and are respondent Nos. 1 to 6.

3. The appeal has been pressed on the ground that the tribunal himself has found that there was contributory negligence of the victim Ram Kishan as well as the truck driver in collision with which the cyclist Ram Kishan is said to have received fatal injuries and instantaneous death, so no compensation should have been awarded against the truck.

4. The finding of contributory negligence has been decided under issue Nos. 1 & 2 by the claims tribunal placing reliance on the evidence of defence witnesses according to whom the cyclist was rash and negligent and collided with the truck. The evidence of claimants' witnesses have asserted that the cycle was moving on the left side of the road whereas the truck came on the wrong side of the road and knocked the cycle causing death of Ram Kishan. The companions of Ram Kishan who were present on the spot on another cycle namely; Rameshwar Dayal and Swatantra Kumar (P.Ws. 4 & 5 respectively) have given out in clear words that the truck came on wrong side rashly and negligently and knocked the

cycle of Ram Kishan. There two witnesses Swatantra Kumar and Rameshwar Dayal somehow managed to escape and save themselves. There is no reason to have doubt in the correctness of statements of these two eyewitnesses. The first information report was also lodged by Rameshwar Dayal (P.W. 4) on the strength of which Criminal Case No. 207 of 1975 under Section 279/304, I.P.C. was registered. The finding of contributory negligence, in the present appeal does not appear acceptable. In the alternative if it is accepted that there was contributory negligence of the victim then also the merit of award challenged in the appeal is not affected. Truck is heavy vehicle and carries heavy responsibility towards safety and security of human life. There is no case that the truck driver used break or any mechanical effort was made to save an accident. The evidence on record proves that the death of Ram Kishan was caused due to the dashing of truck against the cycle of Ram Kishan as a result of which Ram Kishan fell down, crushed.

5. The age of Ram Kishan has been held at 36 years and monthly income of Ram Kishan has been held at Rs. 1000. On these findings the amount of Rs. 1, 30, 000 is much on lower side. The tribunal also has noted in its finding at the last paragraph of the reasons given in the impugned judgment that "the amount claimed is far less than what is accruable to the petitioners."

6. The appeal has no force. The award though on lower side has to be maintained as there is no appeal against the award by the claimants. The appeal fails and the same is dismissed.