
(1984) 11 AHC CK 0054
In the Allahabad High Court

Union of India (UOI)

APPELLANT

Vs

Ram Pyari and Others

RESPONDENT

Date of Decision : 23-11-1984

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 22 Rule 2
Civil Procedure Code, 1908 (CPC) — Order 22 Rule 2
Civil Procedure Code, 1908 (CPC) — Order 22 Rule 2

Citation : (1985) 1 ACC 377

Hon'ble Judges : A. Banerjee, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

A Banerjee, J.—This appeal is directed against an Award made by the Motor Vehicles Claims Tribunal, Meerut dated 30-3-1977 decreeing the Claim petition for a sum of Rs. 20,000/- with interest from the date of the claim till the date of payment at 7/- per annum. The appeal have been filed by the Union of India, the owner of the Military truck No. UD 40511, driven by appellant No. 2 They have prayed for setting aside of the Award on the ground that there was no rash and negligent act in driving of the truck and the amount awarded as compensation of Rs. 20,000/- was erroneous and in any event excessive. A cross-objection was filed on behalf of the respondent-claimants which was valued as Rs. 60,000/-. They had claimed for enhancement of the compensation. However, the cross-objection was dismissed by an order dated 24-8-1978 as non-maintainable. Consequently only the appeal by the appellants is to be considered now.

2. Before I consider the case on merits, it will be necessary to state that the respondent No. 1 Smt. Rampiary wife of late Shri Bharta, was reported dead as early 12th of November, 1980. Sufficient and repeated opportunity was given to the appellants to bring on the record the heirs of the deceased. But this was not done, with the result that the Court dismissed the appeal, as against Respondent No. 1. on the 7th September, 1983. If the two daughters were the only heirs of

the deceased a simple application under Order 22 Rule 2 CPC would have sufficed, with a note on the record that the two daughters were the only heirs and their names were already on the record. On an examination of the record of the case it transpires that the two daughters Km Ramesho and Km Bharpai were aged 14 and 12 years respectively, when the claim was filed, in 1973. By the time Smt. Ram Piary died in 1980 both these minor daughters were major, aged 21 and 19 years respectively. Even though no application under Order 22 Rule 2 CPC was made, but in view of the fact that both the daughters, her heirs, were major, the appeal did not abate. The appeal can be heard against the surviving parties, in the present case.

3. Now coming to the merits of the case, the evidence reveals that the accident took place on the night of 3rd April, 1973 at about 10 p.m. at a tri-junction of two roads, viz. Rotha Road and the road from the Cantonment. The Military truck is said to have come at a speed and struck against the carts standing in front of the octroi post, causing instant death to one Begha and causing severe injuries to several persons, including one Charta, and his brother Bharta. After dashing against the carts, the Military Truck also dashed against the wooden kiosks of the octroi which was also damaged. Charta, who was recovered, filed a claim petition no 391 of 1973 and his claim was decreed for a sum of Rs. 2500/- with interest till the date of payment at 6/- per annum. His brother Bharta died in the Hospital. He was about 45 years of age and left behind him his wife and two minor daughters aged 14 and 12 years. The petition was filed on 3rd of September, 1973. The claim was contested on behalf of the Union of India and the accident was admitted by the appellant No. 1 but it was denied that there was any rash or negligent driving by the driver. It was also said that a cyclist suddenly appeared in front of the vehicle from the side of Rohta level crossing and in spite of the best efforts of the driver the vehicle could not be stopped immediately and it dashed against the octroi post after damaging the cycle and the mule carts. The other point in which the claim was contested, was on the question of compensation which was said to be highly excessive.

4. The Court below consolidated the two claims of Charta and of the respondents in this appeal and struck proper issues. Answering the issue on the question of rash and negligent act it held that the truck driver Sri Kiran, appellant No. 2 was driving the truck rashly and negligently. The Tribunal adjudicating on the question of compensation, awarded Rs 20,000/- to the respondents.

5. In this appeal, the learned Counsel for the appellants Sri R.S. Dhawan has urged that the compensation of Rs. 20,000/- awarded to the respondents was not only excessive but had no legal basis. Further, the compensation was not based on any acceptable date and was based on speculation.

6. On the question of rash and negligent act, the view taken by the court below is correct and in accordance with law. No exception can be taken to the above. I am in agreement with the assessment of the evidence and the findings arrived at by the Tribunal and, therefore, not inclined to take a different view from what

has been taken by the Tribunal.

7. In regard to the question of compensation, the Tribunal computed the total amount as Rs. 30,000/- comprising of Rs. 24,000/- as loss of life and Rs. 6,000/- on account of mental agony and loss of company of married life of claimant No. 1 Bharta's age was 45 when he died. The normal expectancy of life in India these days is 65 years. The Tribunal was right in holding that in the normal course he might have lived for another 20 years. The Tribunal estimated that he would have contributed at least Rs. 24,000/- towards his family members in the next 20 years of his life. Although no data is available as to how this figure was arrived at, but on an examination it appears that the amount is a reasonable one. Twenty four thousand as in 20 years means Rs. 1,200/- per annum or Rs. 100/- per month. It is a reasonable figure. The claimant had asked for Rs. 20,000/- for loss of the company of married life and Rs. 10,000/- for pains, sufferings and mental agony. The Tribunal held that a sum of Rs. 6,000/- would be a reasonable amount under these two heads.

8. In my opinion, this was also a very reasonable amount to be awarded in the circumstances of the case. Nothing could be shown that the amount awarded under these heads was unwarranted or excessive. A very small amount has been awarded considering the fact that there can be no compensation for the loss of life of a human being. In this case the loss of life is that of a male earning member of the family. He died at an age when he was no longer young but still full of life to pursue his activities. He had two minor daughters to bring up and marry. Considering all these facts. Computation of compensation at Rs. 30,000/- was reasonable and fair. The Tribunal has also deducted 1/3rd of the amount, as lump sum payment was to be made. Thus, the amount was ultimately reduced to Rs. 20,000/- I see no reason to reduce the above amount. The contentions raised by the learned Counsel for the appellants are without merits and must be rejected.

9. Before parting with the case, it may be mentioned that the cross-objection filed in this case was dismissed as not maintainable. However, subsequently, a Full Bench of this Court in the case of U.P. State Road Transport Corporation Vs. Smt. Janki Devi and Others, held that cross-objection is maintainable in First Appeal From Order under Section. 110-D of the Motor Vehicles Act, 1939, but as the cross-objection had been dismissed prior to the above Full Bench case, it is not possible to award a larger amount as compensation to the respondents in this case.

10. For the reasons indicated above, the appeal fails and dismissed with costs.