

(2007) 08 AHC CK 0246
In the Allahabad High Court

United India Insurance Co. Ltd.

APPELLANT

Vs

Ram Bahadur, Smt. Sukhdevi and Dilip Kumar Singh

RESPONDENT

Date of Decision : 21-08-2007

Acts Referred:

Citation : (2007) 4 AWC 3755

Hon'ble Judges : Shishir Kumar, J; Amitava Lala, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This appeal has been preferred challenging the quantum of award by the Insurance Company, which has been assessed as Rs. 2.47,700/- inclusive of the damages.

It has been contended that since the appellant was a casual labourer the assessment of amount of income for a sum of Rs. 1900/- per moth is not appropriate. Secondly, the reduction of 1/3 amount being personal expenses of the deceased is not appropriate in view of the decision of Donat Louis Machado v. L. Ravindra 2000 (1) T.A.C. 208 (SC).

2. According to us, there is a factual difference between the referred case of the Supreme Court and the present one. In present case only the parents of a deceased bachelor of the age of 19 years are the claimants and in that case the parents and unmarried daughter of a deceased bachelor of the age of 31 years were the claimants. Therefore, the Supreme Court after enhancing the claim, made a deduction of 2/3rd on the understating of the fact that the bachelor would have spent 2/3rd amount of the earning for the family. Therefore, such decision, made on the factum of the case available there, is not in the teeth of the note under the Second Schedule of the State, wherein reduction of 1/3 as personal expenses has been provided irrespective of social status of the deceased, i.e. married or unmarried. A judicial verdict based on a particular factual probability can not override the statutory provision, even though the

same can be treated as guide. Therefore, we find no reason to interfere with awarded quantum of compensation as given by the Tribunal. As such the appeal cannot be admitted. Hence the same is dismissed.

3. No order is passed as to costs.

4. Incidentally the appellant Insurance Company prayed that the statutory deposit of Rs. 25,000/- made before this Court for preferring this appeal shall be remitted back to the concerned Motor. Accidents Claims Tribunal as expeditiously as possible in order to adjust with the amount of compensation to be paid to the claimant, however, such prayer is allowed.