
(2017) 04 AHC CK 0032

In the Allahabad High Court

Case No : First Appeal From Order No. 937 of 2017

United India Insurance Co. Ltd.

APPELLANT

Vs

Upendra Kumar

RESPONDENT

Date of Decision : 06-04-2017

Acts Referred:

Motor Vehicles Act, 1988 — Section 166, Section 173

Citation : (2017) 2 AllWC 2100

Hon'ble Judges : Dilip Gupta and Prabhat Chandra Tripathi, JJ.

Bench : Division Bench

Advocate : Arvind Kumar, Advocate, for the Appellant

Final Decision : Dismissed

Judgement

Prabhat Chandra Tripathi, J.—This First Appeal From Order has been preferred by the defendant-appellant United India Insurance Company Limited, Allahabad against the judgment, order and award dated 15.12.2016 passed by the learned Motor Accident Claims Tribunal/Additional District Judge, Court No. 1, Mainpuri in Motor Accident Claim Petition No. 372 of 2013 (Upendra and one another v. Mohit Yadav and others), awarding a compensation of Rs.5,96,000/- (Rupees Five Lacs Ninety Six Thousand only) along with pendent lite and future interest at the rate of 7% per annum till the date of actual recovery is made which shall be payable by O.P. No.3, United India Insurance Company Ltd., within one month.

2. The main grounds which have been pleaded in the First Appeal From Order in nutshell are enumerated as follows:-

- (1) The FIR was delayed and fact of the alleged accident is doubtful.
- (2) The deceased died because of complications of the pregnancy and not because of any alleged accident.
- (3) The awarded amount is highly exorbitant and against the evidence on record.

(4) The future prospect on the notional income has been awarded erroneously.

3. We have heard the learned counsel for the appellant and perused the record.

4. Motor Accident Claim Petition No. 372 of 2013 has been filed by Upendra Kumar and one another under Section 166 of the Motor Vehicles Act, 1988 against the opposite parties Mohit Yadav, Yogesh Yadav and United Insurance Company Limited, Mainpuri before the Motor Accident Claims Tribunal/District Judge, Mainpuri for awarding Rs.40,70,000/- (Rupees Forty Lacs Seventy Thousand only).

5. The facts of the case are that on 16.7.2013 at about 12:30 P.M. (Noon), when the claimant Upendra Kumar along with his wife Smt. Kusuma Devi was waiting for a Bus at Kurawali road near Jauhari Nagar Inter College to go to their village, the rider of a motorcycle bearing registration No. UP- 82-N/2319; which was coming from the side of Kurawali, hit Kusuma Devi driving the vehicle in a rash and negligent manner, due to which she sustained grievous injuries on her abdomen, head and rest of the body. For treatment, she was admitted in a Government Hospital, Mainpuri. Due to her serious condition, she was referred to a Hospital at Saifai where during treatment, she succumbed to the injuries on 22.7.2013. The deceased Kusuma Devi was six months pregnant. She was hale and hearty and an educated housewife. She was carrying a dairy business by rearing buffaloes. Apart from dairy business, she imparted tuition to children, out of which she earned Rs.10,000/- per month.

6. The learned Motor Accident Claims Tribunal/Additional District Judge, Court No. 1, Mainpuri, after a careful examination of the facts has awarded an amount of Rs.5,96,000/- (Rupees five lacs ninety six thousand only) along with pendent lite and future interest at the rate of 7% per annum till the date of actual recovery is made which shall be payable by United India Insurance Company Limited within one month by calculating the notional income of the deceased lady and applying the formula of dependency as well as exact multiplier and adding amount of Rs.5000/- each for Loss of Estate, Love and Affection and Loss of Consortium and funeral expenses. The learned Motor Accident Claims Tribunal/Additional District Judge, Court No. 1, Mainpuri has arrived at a right conclusion after marshalling the evidence available on record.

7. Thus, no interference is required and the First Appeal From Order deserves to be dismissed in limine. It is, accordingly, dismissed.

8. The statutory amount of Rs.25,000/- (Rupees twenty five thousand only) deposited under Section 173(1) of the Motor Vehicles Act, 1988 shall also be remitted to the Tribunal for being adjusted in the amount to be paid.