

(2007) 08 AHC CK 0137

In the Allahabad High Court

Case No : First Appeal From Order No. 2312 of 2007

United India Insurance Company Ltd.

APPELLANT

Vs

Leeladhar and another

RESPONDENT

Date of Decision : 22-08-2007

Acts Referred:

Citation : (2007) 08 AHC CK 0137

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

Final Decision : Allowed

Judgement

Amitava Lala, J.

1. In the case of death of an unmarried person aged about 20 years, the compensation for a sum of Rs. 3,88,500 was awarded by the Tribunal in favour of the claimant. The Insurance Company, by preferring this appeal, contended before this Court that deduction of 2/3rd but not 1/3rd of the income is applicable for computation of award in case of unmarried person. He relied upon a Division Bench judgment of this Court being F.A.F.O. No. 671 of 2001 dated 6.7.2005 in United Insurance Company Ltd. v. Iqbal Ahamad and others. From paragraph 5 of the judgment we find that the occupants of the vehicle therein were unmarried. The Tribunal below had taken the family dependency to be 1/3rd of the income which according to the Division Bench is correct. However, the Tribunal had applied the multiplier on the age of the deceased, which was not correct in view of the ratio of U.P. State Road Transport Corporation and others v. Trilok Chandra and others 1996 ACJ 831.

2. We have gone through such judgment and found that as an example Supreme Court said that if the deceased who is bachelor dies at the age of 45 years and his dependants are his parents, the age of the parents would also be relevant in the choice of multiplier. The word "also" does not denote total exclusion of the age of the deceased. In the instant case, there is no dispute about applicability of the multiplier as fairly contended by the learned Counsel for the appellant. Therefore, ratio of such referred judgments have no manner of application here.

However dispute relates to dependency is to be resolved by the following decision. In the case of Donat Louis Machado and others v. L. Ravindra and others 2000 (1) TAC 208 (SC), the Supreme Court held that in the case of unmarried that when dependents are parents and unmarried sister, who were dependent on him would have got at least 1/3rd amount as he would have spent the rest of 2/3rd amount of his earnings on his own family which he would have raised on himself. Therefore, the consideration of the cause in Donat Louis Machado and others (supra) is based upon the factum of the case which has been considered by this Division Bench in F.A.F.O. No. 2269 of 2007, United India Insurance Co. Ltd. v. Rani Bahadur and others, and held that a judicial verdict based on particular factual probability cannot override the statutory provision even though the same can be treated as guide,

3. Therefore, taking into account of totality of subject matter we cannot admit the appeal.

4. Hence, the appeal stands dismissed. No order is passed as to costs.

5. 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.