

(2005) 10 AHC CK 0044
In the Allahabad High Court

United India Insurance Company Ltd.

APPELLANT

Vs

Rundhawati and Others

RESPONDENT

Date of Decision : 20-10-2005

Acts Referred:

Motor Accidents Claims Tribunal Act — Section 170

Citation : (2006) 1 ACC 127

Hon'ble Judges : R.P. Misra, J; Krishna Murari, J

Bench : Division Bench

Judgement

R.P. Misra , J.—Heard Mr. Amresh Sinha, learned Counsel for the appellant.

2. This first appeal from order is directed against the award of motor accident Claims Tribunal. An accident is alleged to have taken place on 6.11.2003, when the deceased Brahmanand was going on by a cycle, with a mini truck No. U.P. 58/8256 on account of rash and negligent driving of the truck. Brahmanand, in unconscious condition, was admitted in District Hospital, Sidharthnagar where he died on 11.11.2003 on account of serious injuries sustained in the accident. The dependents of the deceased namely his wife and son filed a claim petition claiming compensation of a sum of Rs. 5,38,000 along with 15% interest. The Tribunal by the impugned award allowed the claim of Rs. 1,20,000 towards compensation along with 6% interest from the date of filing the petition till the date of payment.

3. It has been urged by the learned Counsel for the appellant that the amount awarded is highly excess as there was no proof of the income of the deceased. It has further been urged that the application filed by the appellant u/s 170 under the Motor Accident Claims Tribunal has wrongly been dismissed by the Tribunal.

4. We have considered the arguments advanced by the learned Counsel for the appellant and perused the award.

5. It was claimed in the petition that the deceased was having an income of Rs. 3,000 per month. However, since there was no proof of the same, the Tribunal

took the annual income of the deceased to be Rs. 15,000 in accordance with Second Schedule of the Motor Vehicles Act. After deducting 1/3 rd from the same towards personal expenses of the deceased, the Tribunal has determined the compensation taking his annual income to be Rs. 10,000 and thus determined the compensation of Rs. 1,20,000. the Tribunal has further awarded a sum of Rs. 5,000 towards mental pain and agony and Rs. 5,000 towards the medical and funeral expenses. Thus, in this manner, a total amount of Rs. 1,20,000 has been awarded.

6. We see no illegality in the determination of the compensation made by the Claims Tribunal. The appeal accordingly fails and is dismissed.

7. The statutory deposit made by the appellant before this Court may be remitted back to the Claims Tribunal for being adjusted towards the deposit of the awarded amount to be made by the appellant.