

(1987) 07 AHC CK 0016
In the Allahabad High Court

U.P. State Road Transport Corporation and Another	APPELLANT
Vs	
Viryam Kaur and Others	RESPONDENT

Date of Decision : 23-07-1987

Acts Referred:

Motor Vehicles Act, 1939 — Section 110D
Motor Vehicles Act, 1939 — Section 110D
Motor Vehicles Act, 1939 — Section 110D

Citation : (1988) 1 ACC 217

Hon'ble Judges : K.C. Agarwal, J;D.S. Sinha, J

Bench : Division Bench

Judgement

D.S. Sinha, J.—This appeal, u/s 110-D of the Motor Vehicles Act, 1939, hereinafter referred to as the Act, filed by U.P. State Road Transport Corporation and Sardar Singh, is directed against the judgment and order dated 8-5-1978, passed by the IV Additional Motor Accident Claims Tribunal, Meerut, in Motor Accident Claim No. 428 of 1973, preferred by the respondent u/s 110-A of the Act.

2. The claim of the respondents arose out of an accident wherein one Harjendra Singh died on the spot as a result of collision of his scooter No. D.L.S. 4951 with U.P. Government Roadways bus No. U.T.D. 321 driven by Sardar Singh. The fatal accident took place at about "6.00 p.m. on 1-7-1973 in Modinagar town when the deceased was going from Meerut to Delhi. It was alleged that the accident took place on account of rash and negligent driving of the motor-bus. The age of the deceased was alleged to be 32 years and his monthly income was pleaded to be Rs. 5000/- per month. The deceased was a building contractor and an income tax assessee. In these circumstances the claimants, who were widow, three minor sons and parents of the deceased, claimed an amount of Rs. one lac by way of compensation.

3. The U.P. State Road Transport Corporation, appellant No. 1 before us, resisted the claim of the claimant-respondents expressing ignorance to most of the

averments made in the pleading set up by the respondents. It pleaded that the accident took place owing to the wrong act of the Scooterist i.e. Harjendra Singh, the deceased, who, along with the another Scooterist, was driving the vehicle on his wrong side and while coming to his right side dashed against the bumper of the bus which caused the accident in question resulting in the death of Harjendra Singh and the pillion-rider on the spot. It was further pleaded by the appellant No. 1 that the scooter might not have been in perfect working condition on account of which the deceased might have lost control over the vehicle. According to the appellant No. 1, the bus was running at a very slow speed through the abadi of Modinagar town and the allegations about its being driven rashly and negligently were incorrect. It was also pleaded that the amount of compensation claimed by the respondents was exorbitant and was not based on any date. Further pleading was that neither respondents were entitled to me nor was their petition in accordance with law.

4. The Tribunal, after thoroughly investigating the respective claim of the parties, held that the claimant-respondents, being widow, sons and parents of the deceased Harjendra Singh, were his legal heirs and entitled to compensation. The plea with regard to the maintainability of the claim petition, it appears, was not pressed.

5. Issues Nos. 2 and 3 related to the alleged rash and negligent driving of the driver of the bus and alleged negligent act of the deceased or the defect in his Scooter. These issues were tried by the Tribunal jointly. On a meaningful examination of the evidence, both oral and documentary, the Tribunal held that the accident was outcome of the rash and negligent driving of the bus and not owing to any negligent act of the deceased or any defect in the Scooter.

6. On the question of quantum of compensation the Tribunal found that the amount of Rs. 1 lac claimed by the respondents was not excessive and the claimants were entitled to the same. Over and above this amount of Rs. 1 lac the Tribunal also awarded cost and interest at the rate of six per cent per annum, both pendent lite and future. Out of the amount of compensation awarded the parents were directed to be paid Rs. 3000/- each, the widow was directed to be paid Rs. 51,000/- and the two sons under the guardianship of their mother, were directed to be paid Rs. 13,000/-. The liability of the driver was determined at Rs. 5000/-. The owner of the vehicle and the driver, namely, the appellant No. 1 and 2 respectively, were had to be liable jointly and severally to pay to the claimants.

7. We have heard Sri S.K. Sharma and Shri A.D. Prabhakar, learned Counsels appearing for the appellants and the claimant-respondents respectively and also scrutinised the record.

8. The learned Counsel for the appellants found it difficult to assail the findings of the Tribunal with regard to the issues relating to rash and negligent driving of the driver of the bus which led to the unfortunate accident. He, however, attempted to attack the judgment on the question of the award of compensation and the

quantum thereof as well.

9. The contention of the learned Counsel for the appellants was that the compensation awarded by the Tribunal was excessive, based on no rational basis and its findings rested on conjectures and surmises.

10. On a careful scrutiny of the record and submission made by the learned Counsel for the appellant we find it difficult to hold that the Tribunal erred in coming to conclusion that the claimant-respondents were entitled for compensation and that the reasonable quantum of compensation would be Rs. 1 lac with interest. The basis for calculation of the quantum of compensation awarded to the claimant-respondents, it appears, was monthly income of the deceased determined by the Tribunal at a minimum of Rs. 600/-. The Tribunal, after giving an allowance of Rs. 200/- for personal expenditure of the deceased, found his monthly contribution towards his dependents to be Rs. 400/-per month. This finding of the Tribunal does not appear to be vitiated by any error. In this connection the Tribunal relied on the circumstances that three sons of the deceased had been studying in english school that the widow and the three boys who appeared before the Tribunal, looked, from very appearances, to have a standard of living which was above average ; that the family had been residing in the city of Delhi; that the registration book and the driving licence filed by the claimants proved that the Scooter involved in the accident was owned and being maintained by the deceased, and finally that there was nothing on record to indicate that there was any other source, except the earning of the deceased himself to support the family constituted of the respondents. It had come on record that the deceased was 32 years of age and possessed good health free from any disease. The father of the deceased, who was one of the claimants, was 70 years old. On these considerations the Tribunal fixed expectancy of life of the deceased at 60 years which, we think, is absolutely correct and no exception can be taken to it. On this finding the Tribunal found that the deceased would have contributed to his dependents a sum of Rs. 1.34,000/ . The Tribunal took into account the Life Insurance Corporation's policy of the deceased for sum of Rs. 10,000/- which had been paid to the claimants, the deduction on account of lump-sum payment and uncertainties of life and came to the conclusion that the proper compensation to be awarded to the respondent would be Rs. 1 lac and this sum was not excessive. The learned Counsel for the appellants could not convince and persuade as to hold that the conclusion of the Tribunal pertaining to the aspect of payment of compensation as well as quantum thereof suffers from any such factual or legal infirmity which might justify any interference with the impugned judgment and order.

11. We are of the opinion that the judgment and order of the Tribunal, being sound and perfect, cannot be disturbed in appeal. The appeal fails on its merits and is dismissed with costs.