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(1992) 09 AHC CK 0038

In the Allahabad High Court

Case No : F.A.F.O. No. 143 of 1992

U.P. State Road Transport Corporation — APPELLANT

Vs

Gajadhar Singh and Others — RESPONDENT

Date of Decision : 22-09-1992

Acts Referred:
Motor Vehicles Act, 1988 — Section 110CC

Citation : (1994) ACJ 434

Hon'ble Judges : V. Saran, J;B.M. Lal, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

B.M. Lal, J.—By the present First Appeal From Order, the Uttar Pradesh State Road Transport Corporation (for short ''the Corporation'') has challenged the award dated 25.10.1991, passed by the Motor Accidents Claims Tribunal, Etah (for short ''the Tribunal'') in Motor Accident Claim Case No. 46 of 1989.

2. It appears that on 8.2.1989, in the evening hours at about 5.40 p.m., one Tejpal Singh while returning home by his Atlas moped met an accident with Roadways bus No. UHI 204 belonging to the Corporation/ The bus was being driven by driver Raghubir Singh with close proximity and due to negligence of driver Raghubir Singh the bus struck against the moped and Tejpal Singh received multiple injuries as a result of which he died.

3. The sons, daughter, widow and father of deceased Tejpal Singh filed aforesaid claim case against the driver of the bus and officer incharge of the Corporation claiming a sum of Rs. 4,04,258.60 with interest at 6 per cent per annum as compensation.

4. After considering facts and circumstances of the case, Tribunal by its order dated 25.10.1991 awarded compensation to the tune of Rs. 2,00,000/- to the claimants with interest at the rate of 12 per cent per annum from the date of filing the claim petition. Against this award present appeal has been filed by the

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Corporation.

5. Learned counsel for the appellant, the Corporation, contended that no doubt the accident took place but the driver of the bus was not at fault and the bus was being driven at a normal speed. The accident took place due to negligence of the deceased who could not control the balance of his moped and not due to negligence of the driver of the bus. It is further contended that the compensation to the tune of Rs. 2,00,000/- is much excessive and there is no deduction for the lump sum payment and further the Tribunal erred in awarding the compensation by multiplying the life expectancy without making any deductions.

6. We have given thoughtful consideration to the arguments advanced by the learned counsel for the appellant. So far as the point as to whether due to negligence of the driver of the bus or due to negligence of deceased Tejpal Singh the accident took place is concerned, in this regard, the Tribunal by its judgment dated 25.10.1991 recorded its finding on the basis of the evidence adduced before it, that the accident took place due to rash and negligent driving of the bus by the driver Raghubir Singh. The finding recorded by the Tribunal is a finding of fact and the same, in our opinion, is based on correct appraisal of the evidence on the record.

7. As regards the quantum and assessment of compensation, suffice it to say, according to the claimants, the deceased Tejpal Singh before his death in the accident was serving as Basic Health Visitor, Primary Health Centre, Salawat Nagar and was drawing salary of Rs. 1,800/- per month. The Tribunal has recorded the finding that out of his total salary, the deceased used to spend 1/3 on himself and 2/3 on his dependants/the claimants. At the time of death the age of the deceased was 48 years and the age of his superannuation was 58 years. As such on account of his death the claimants were deprived of Rs. 1,200/- per month, which comes to Rs. 14,400/- per annum and till the date of superannuation it comes to about Rs. 1,44,000/- from the gross salary alone, excluding annual increments and other increases in the salary from time to time.

8. However, in series of cases, the Apex Court held that normal span of life of a man be taken to be 75 years in view of high rise in life expectancy, therefore, in the instant case if the span of life of deceased is taken to be even 70 years, the claimants have further suffered recurring loss of 2/3 of the amount of pension and if total loss of income is worked out, it would certainly exceed Rs. 2,00,000/-.

9. In this view of the matter, in our opinion, Tribunal has not committed any error in awarding compensation to the tune of Rs. 2,00,000/- and in any view of the matter the amount of compensation cannot be said to be excessive.

10. As regards the argument of learned counsel for the appellant that no deduction on account of lump sum payment has been made, suffice it to say that in Hardeo Kaur and others Vs. Rajasthan State Transport Corporation and another, , Apex Court ruled that deduction on account of lump sum payment is not justified, in view of delay in disposal of compensation cases and the

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monstrous inflation.

11. In the instant case accident took place on 8.2.1989 and the claim petition was decided on 25.10.1991, as such matter has taken more than 2 years in its decision and due to undue hike in prices the value of rupee is dwindling like thunder, therefore, Tribunal has rightly awarded compensation to the tune of Rs. 2,00,000/-.

12. In Motor Owners'' Insurance Co. Ltd. v. J.K. Modi 1981 ACJ 507 (SC) and Manjushri Raha v. B.L. Gupta 1977 ACJ 134 (SC), the Apex Court awarded compensation by multiplying the life expectancy without making any deductions.

13. In Concord of India Insurance Co. Ltd. v. Nirmala Devi 1980 ACJ 55 (SC), the Apex Court ruled that the determination of the quantum must be liberal, not niggardly, since the law values life and limb in free country in generous scales.

14. So far as the arguments of learned counsel for the appellant that the Tribunal committed error in awarding the interest at the rate of 12 per cent per annum are concerned, the awarding of interest appears to be in consonance with the provisions of Section 110-CC of Motor Vehicles Act. That apart, in Chameli Wati v. Delhi Municipal Corporation 1985 ACJ 645 (SC), the Apex Court awarded interest at the rate of 12 per cent per annum from the date of petition. Same view has been reiterated by the Apex Court in Jagbir Singh v. General Manager, Punjab Roadways 1987 ACJ 15 (SC). This being so, the Tribunal, in our opinion, has rightly awarded the interest at the rate of 12 per cent per annum.

15. In view of the premises aforesaid, considering facts and circumstances of the case and latest law on the subject, in the opinion of this court, the impugned award of the Tribunal is perfectly correct and there is no error in the impugned award warranting interference of this court.

16. In the result, there is no merit in the appeal. Consequently, it is dismissed in limine. There shall be no order as to costs.

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