

(1992) 04 AHC CK 0094
In the Allahabad High Court

U.P. State Road Transport Corporation	Vs	APPELLANT
Shobha Devi Andey and Others		RESPONDENT

Date of Decision : 17-04-1992

Acts Referred:

Motor Vehicles Act, 1939 — Section 110D

Citation : (1993) 1 ACC 301

Hon'ble Judges : D.S. Sinha, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.S. Sinha, J.—Heard Sri S.K. Sharma, learned Counsel for the appellant, and Sri Ashok Kumar Srivastava, holding brief of Sri S.M. Dayal, learned Counsel appearing for the claimant-respondents.

2. This appeal, u/s 110-D of the Motor Vehicles Act, 1939, hereinafter called the "Act", is directed against the award dated 6th December, 1979 given by the Motor Accident Claims Tribunal, Kanpur, hereinafter called the "Tribunal" in Motor Accident Claim Case No. 25 of 1975 between Smt. Shobha Devi Pendey and Others and U.P. State Road Transport Corporation and Others.

3. The claimant-respondents, who are the heirs of the deceased Sri Narain Pandey, instituted in the Tribunal a Claim Petition u/s 110-A of the "c" for recovery of Rs. 2,05,000/- as compensation from the U.P. State Road Transport Corporation, hereinafter called the "Corporation", and the driver of the bus. The deceased Sri Narain Pandey, aged about 27 years, was employed as Head Master in the Junior High School at Jahanabad in the district of Fatehpur and was drawing a salary of Rs. 600/- per month. He also had some earning through private tuition. At about 6 p.m. on 24th January, 1975 the deceased while travelling in Bus No. UPG 8632 belonging to the Corporation was thrown out of the bus. He suffered multiple internal injuries due to fall from the bus and died due to shock and haemorrhage as a result of injuries sustained by him.

4. The Claimant-respondents asserted that Rs. 500/- were spent on the treatment of the deceased. It was further asserted by them that the deceased enjoyed very good health and was the sole supporter of the family. According to the claimant-respondent normal span of life of the deceased could not be less than 65 years but on account of the accident the claimants were deprived of the earning of the deceased for the next 35 years.

5. The claim of the claimant-respondents was resisted by the Corporation as well as driver of the bus on the pleading that the income of the deceased was not Rs. 500/- per month. They also denied the factum of accident besides asserting, in the alternative, that the deceased did not have a valid ticket authorising him to lawfully travel in the bus of the Corporation.

6. On the questions of happening of the accident and the negligence of the driver in driving the vehicle in question, the Tribunal held that the accident did take place as alleged by the claimant-respondents and that the driver of the bus acted in a highly rash and negligent manner resulting in the fall of the deceased. On these findings the Tribunal found the claimants to be entitled to the compensation on account of the accident resulting in the death of the deceased Sri Narain Pandey. The Tribunal also found it as a matter of fact that the bus involved in the accident belonged to the Corporation and the Corporation was liable to pay compensation to the claimant-respondent.

7. For determination of quantum of compensation the Tribunal took into account the fact that the deceased was a healthy young man of 26-27 years of age and had an earning of Rs. 255/- per month. It also opined that the deceased might have lived a normal age of superannuation i.e. 60 years. On this basis the Tribunal held that the claimants would have been supported by the deceased for the next 33 years. While determining the quantum of compensation the Tribunal excluded a sum of Rs.125/- per month presuming that the deceased must have been spending that amount on himself. After the exclusion of a sum of Rs. 125/-, aforesaid, the balance of Rs. 130/- per month was held to be the amount which the deceased was spending on the claimants. The Tribunal, therefore, applying multiplier of 33 arrived at the figure of Rs.51,480/- as the amount of compensation. However, it granted a deduction of 25% as the amount was to be paid in lump sum. This brought down the quantum of compensation to Rs. 36810/-. Besides the said quantum of compensation the Tribunal also held the claimant-respondents to be entitled to a sum of Rs. 1500/- as expenses incurred in the performance of last rites of the deceased and further a sum of Rs. 500/- as expenses in the treatment of the deceased. Thus the total amount, to which the claimant-respondents were found to be entitled came to Rs. 40,610/- besides interest at the rate of 6% per annum.

8. This Court, after thoroughly examining the facts and circumstances of the case and hearing the submissions of the learned Counsel for the parties, is in agreement with the finding of the Tribunal with regard to the quantum of compensation to which the claimant-respondents have been found to be entitled.

Learned Counsel for the appellant could not dispute the fact that method of computing the compensation adopted by the Tribunal is one of the recognised modes therefore. The Court does not find any illegality either in the approach of the Tribunal or in the computation of the compensation awarded to the claimant-respondents. The compensation awarded to the claimant-respondents cannot be termed to be excessive by any stretch of imagination.

For the fore-going reasons, the impugned award is upheld and the appeal is dismissed with costs.