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(2007) 04 AHC CK 0074

In the Allahabad High Court

U.P. State Road Transport Corporation APPELLANT

Vs

Smt. Pratibha Singh and Others RESPONDENT

Date of Decision : 23-04-2007

Acts Referred:

Motor Vehicles Act, 1939 — Section 110D

Citation : (2007) 04 AHC CK 0074

Hon'ble Judges : V.C. Misra, J;Amitava Lala, J

Bench : Division Bench

Judgement

Amitava Lala, J.—This appeal arising out of an award of compensation granted by the Motor Accident Claims Tribunal u/s 110-D of the Motor Vehicles Act. 1939 (hereinafter referred to as the Act. 1939). The application for compensation under Act. 1939 is to be made u/s 110-A of the Act. wherein certain options are to be given u/s 110-AA of the Act. however, the award of the Tribunal is to be given u/s 110-B of the Act. The method of compensation is to be adopted in accordance with said Sections unlike the new Act i.e. Motor Vehicles Act. I988 where a formula has been adopted under the schedule of the relevant Section being 163-A of the said Act. We have to go In the old Act in the present case. The only point which has been raised b\\ the appellant is the application of multiplier. According to the appellant higher side of income has been shown as Rs. 1500/- where dependency has been shown as Rs. 1000/-. Further deduction has been made of 1/3rd and distributed amongst six claimants. A cross-objection has been filed by the respondent-claimants saying that one daughter has been married during the pendency of the claim petition and one of the sons now became major and started working during the pendency of the claim petition.

2. Under such circumstance, learned Counsel appearing for the appellant contended that such deduction of 1/3rd will not be applicable in the case at least in respect with the aforesaid two persons. We accept such submission since there is no objection subject to what is held hereunder.

3. Learned Counsel appearing for the respondents cited a decision rendered in,

K.S.R.T.C. v. Susamma Thomas reported in 1994 (1) T.A.C. 323 where it has been said that future prospect of the deceased is also to be taken into account in respect of compensation. Such judgment is also delivered under the old Act. In this particular case the age of the deceased was 40 years and he was a medical practicianer. Therefore, it would be proper to say that at least Rs. 2000/- which had been shown as monthly income, which has been fixed by the Tribunal is not at all on the higher side on the analysis of the said judgment.

4. So far as the interest part is concerned although it is fixed (sic) 6% per annum as per the ratio of such judgment as well as the judgment referred under Smt. Chameli Wati and Another Vs. Municipal Corporation of Delhi and Others, , we find that the same would be enhanced (sic) 12% per annum from the date of application of compensation till the date of the payment in the place and instead of 6% per annum. Therefore, according to us. such rate of interest can also be applicable this particular case.

5. Hence we dispose of the appeal and cross-objection by holding the view that the aforesaid respondents should be eliminated from the claim. The claim amount which has been fixed is correct in accordance with old Act i.e., Motor Vehicles Act, 1939. The interest @ of 12% per annum from the date of application till the payment is fixed. The compensation amount will be calculated accordingly and will be paid to the claimants.

6. No order is passed as to costs.

V.C. Misra, J.

7. I agrees.

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