

(2010) 01 AHC CK 0067
In the Allahabad High Court

U.P.S.R.T.C. and Others

APPELLANT

Vs

Smt. Sudha Goswami and Others

RESPONDENT

Date of Decision : 05-01-2010

Acts Referred:

Citation : (2010) 3 AWC 2917 : (2011) 7 RCR(Civil) 1997

Hon'ble Judges : Sanjay Mishra, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Sanjay Mishra, J.—Heard Sri Samir Sharma, learned Counsel for the appellants and learned Counsel for the respondents.

2. The appellant, U.P. State Road Transport Corporation is aggrieved by the award dated 17.7.1981, passed in Claim Petition No. 7 of 1979 by the Motor Accident Claims Tribunal, Varanasi. The short fact giving rise to this appeal are that one Sant Kumar Goswami, aged about 38 years was husband of claimant No. 1 and father of the other claimants and was employed as Regional Manager in a firm. He was getting Rs. 1,225 per month + bonus, increment and other perquisites. On 29.4.1979 the deceased was travelling by a three-wheeler tempo from Varanasi to Mughal Sarai and at Malviya bridge Bus No. U.T.N.-3179, belonging to the Corporation, which was being driven rashly and negligently hit the three-wheeler, resulting in. the death of three occupants including Sant Kumar Goswami. The Tribunal framed the issues regarding rash and negligent driving of the bus and the amount of compensation to which the claimants may be entitled.

3. On the first issue, the Tribunal upon considering the oral statement of the witnesses produced by the claimants, came to a conclusion that the bus was being driven rashly and negligently and upon the admission of the accident by the driver of the bus.

4. On the issue of compensation, the Tribunal found that no compensation was

paid to the claimants by the employer under the Workmen's Compensation Act, 1923 and hence, determined the compensation on the basis that the deceased must be spending at least Rs. 600 per month on his dependents and the annual contribution by the deceased for the claimants would be Rs. 7,200 per annum. It considered that the deceased was aged about 38 years at the time of his death and could serve his employer for another 20 years and his children would become major within the said 20 years. The Tribunal found that the deceased would have spent about Rs. 1,44,000 on the claimants and awarded a lump-sum Rs. 1,00,000 to the claimants-respondent. It also directed for payment of 6% interest per annum from the date of award, in case Corporation failed to pay the amount within three months.

5. Sri Samir Sharma has firstly submitted that the driver of the Bus was not driving in a rash and negligent manner and the accident-occurred due to fault of three-wheeler's driver, who was carrying more than 4 persons in violation of the Rules. The second submission is that the compensation could be paid by the employer of the deceased under the Workmen's Compensation Act, 1923 and hence, the Motor Accident Claims Tribunal ought not to have entertained the claim.

6. Having considered the submission of learned Counsel for the appellant and perused the record, it will be seen that there is no bar under the Motor Vehicles Act, 1988 for entertaining the claim petition, even if the claimants could make a claim under the Workmen's Compensation Act. In the instant case, there is nothing on record to indicate that any compensation was given to the claimants in any proceedings under the Workmen's Compensation Act. Consequently, the submission of Sri Sharma to the contrary cannot be accepted and the claim petition under the Motor Vehicles Act was rightly maintained.

7. Insofar as the quantum of compensation is concerned, nothing has been shown by Sri Sharma regarding the income of the deceased or that the amount held to have been spent by him upon his dependents is in any manner incorrect. The Tribunal has found the age of deceased to be 38 years and he could continue to serve his employer up to the age of 58 years, hence, it has calculated the sum, which the deceased would have spent upon his dependants during 20 years of his employment and has arrived at Rs. 1,44,000 as the amount he would have spent. The Tribunal has awarded a lump-sum of Rs. 1,00,000 to the claimants-respondent. There is no error found in the aforesaid conclusion of the Tribunal.

8. For the aforesaid reason, this appeal has no merit and is accordingly dismissed.

No order is passed as to costs.