(2019) 09 UK CK 0171

In the Uttarakhand High Court

Case No : Appeal From Order No. 08 Of 2016

Uttarakhand State Road Transport Corporation — APPELLANT

Vs

Pallavi Sharma & Others — RESPONDENT

Date of Decision : 24-09-2019

Acts Referred:

Citation : (2019) 09 UK CK 0171

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Advocate : N.S. Pundir, Aditya Pratap Singh

Final Decision : Partly Allowed

Judgement

Sudhanshu Dhulia, J

1. This is an appeal filed by the Uttarakhand State Road Transport Corporation against the judgment and award dated 28.11.2015 passed by the Motor Accident Claims Tribunal, Roorkee, District Haridwar in M.A.C.P. No. 148 of 2014, whereby a compensation of Rs.53,83,000/- (Rupees Fifty Three Lakh Eighty Three Thousand only) has been awarded to the claimants.

2. Brief facts of the case are that on 18.05.2014 Akhilesh Vats (deceased) was waiting for a bus at the bus stop, Mangalore as he had to return to his home town, Muzaffarnagar. At about 04:15 P.M., a bus bearing registration no. UK07PA-0497, which was being driven rashly and negligently by its driver, hit the deceased, who was standing at the bus stop. As a result of this accident, Akhilesh Vats sustained grievous injuries, and was taken to Civil Hospital, Roorkee, where he was declared dead.

3. On account of the death of Akhilesh Vats in a motor accident, a claim petition was filed by the claimants claiming a compensation of Rs. 76,25,000/- (Rupees Seventy Six Lakh Twenty Five Thousand only). Claimant no. 1 is the widow of the deceased, claimant nos. 2 & 4 are the minor sons of the deceased and claimant

no. 3 is the mother of the deceased. It was stated in the claim petition that the deceased was aged about 30 years. He was working with Shiva Paper Products and Neel Kanth Print & Packers, District Haridwar and was earning Rs.2,78,455/- (Rupees Two Lakh Seventy Eight Thousand Four Hundred Fifty Five only) per annum. It was further stated in the claim petition that the claimants are dependents on the deceased and due to sudden death of the deceased, they have suffered mental, physical and monetary loss.

4. Written statements were filed by the appellant as well as by the driver of the vehicle.

5. On the basis of the pleadings of the rival parties, the Motor Accident Claims Tribunal framed the following issues:-

"1. Whether on 18.05.2014 at about 04:15 P.M. at Factory Kulchandi, near Libberhedi G.T. Road, P.S. Kotwali, Mangalore, when Akhilesh Vats was waiting for bus on the kuccha road, Bus of Uttarakhand Roadways bearing registration no. UK-07-PA-0497 which was coming from the side of Mangalore and was being driven by its driver rashly and negligently hit Akhilesh Vats, as a result of which he died due to injuries sustained by him in the accident?

2. Whether the alleged accident occurred due to the own negligence of Akhilesh Vats, as stated by respondent no. 2 in para 25 of the written statement?

3. Whether the claimants are entitled for any compensation? If yes, then to what extent and from which of the respondents?"

6. While deciding issue nos. 1 and 2, the learned Tribunal came to the conclusion that the accident in question occurred due to negligence of the driver of the bus bearing registration no. UK-07PA-0497. This finding of the learned Tribunal is based on the evidence in the form of PW-2 Omveer Singh, who is an eyewitness to the incident. This witness has categorically stated that on 18.05.2014, when Akhilesh Vats was waiting for a bus outside his factory, a bus of Uttarakhand Roadways bearing registration no. UK-07PA-0497 which was being driven rashly and negligently by its driver hit Akhilesh Vats, as a result of which, he sustained grievous injuries and subsequently died.

7. The bus belongs to the Government Corporation and was not insured.

8. As regarding quantum of compensation, the learned Tribunal after taking into consideration the income tax return of the deceased for the year 2014-15 determined the annual income of the deceased as Rs. 2,78,455/- (Rupees Two Lakh Seventy Eight Thousand Four Hundred Fifty Five only). On this amount, the learned Tribunal awarded 50 % of the amount i.e. Rs. 1,39,227.50/- (Rupees One Lakh Thirty Nine Thousand Two Hundred Twenty Seven and Fifty Paise only), as future prospects, and calculated the annual income of the deceased as Rs. 4,17,682.50/- (Rupees Four Lakh Seventeen Thousand Six Hundred Eighty Two and Fifty Paise only). Out of this amount, the learned Tribunal deducted an amount of Rs. 21,768/- (Rupees Twenty One Thousand Seven Hundred Sixty

Eight only) and calculated the amount as Rs. 3,95,914/- (Rupees Three Lakh Ninety Five Thousand Nine Hundred Fourteen only). Thereafter after considering the number of dependents, the learned Tribunal deducted one-fourth of the amount towards personal expenses and calculated the annual dependency income as Rs. 2,96,935/-(Rupees Two Lakh Ninety Six Thousand Nine Hundred Thirty Five only). The learned Tribunal thereafter applied a multiplier of 17 and calculated the compensation as Rs. 50,47,903/-(Rupees Fifty Lakh Forty Seven Thousand Nine Hundred Three only).

9. Apart from the above, the learned Tribunal also awarded an amount of Rs. 10,000/-(Rupees Ten Thousand only) towards loss of estate, Rs. 1,00,000/-(Rupees One Lakh only) towards loss of consortium, Rs. 1,00,000/- (Rupees One Lakh only) towards loss of love and affection and guidance to minor children due to death of their father, Rs. 1,00,000/-(Rupees One Lakh only) towards loss of love and affection to mother and Rs. 25,000/- (Rupees Twenty Five Thousand only) towards funeral expenses. Thus the learned Tribunal awarded a total compensation of Rs. 53,83,000/- (Rupees Fifty Three Lakh Eighty Three Thousand only).

10. Aggrieved, the Uttarakhand Transport Corporation has filed the present appeal.

11. Learned counsel for the appellant submits that the Tribunal has wrongly awarded 50 per cent towards future prospects, whereas as per the decision of the Hon'ble Apex Court in the case of National Insurance Company Limited vs. Pranay Sethi & others reported in (2017) 16 SCC 680, it should have been 40 per cent. This aspect is also fairly admitted by the learned counsel for the claimants itself Sri Aditya Pratap Singh and he would also submit that it should have been 40% instead of 50%.

12. The other objection raised by the learned counsel for the appellant is that the Tribunal has wrongly awarded an amount of Rs.3,35,000/- (Rupees Three Lakh Thirty Five Thousand only) towards conventional heads i.e. loss of estate, loss of consortium, loss of love and affection and funeral expenses, etc, and it should have been Rs.70,000/- (Rupees Seventy Thousand only) as per the judgment of the Hon'ble Apex Court in the case of Pranay Sethi (supra).

13. In the case of Pranay Sethi (supra), the Hon'ble Apex Court has held in para 59.4 that in case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be made towards future prospects where the age of the deceased is below 40 years. In this case the deceased was 30 years of age and therefore an addition of 40 % should have been made towards future prospects. However, the learned Tribunal has awarded 50% amount towards future prospect, which is wrong.

14. Moreover, in the judgment of Hon'ble Apex Court in the case of Pranay Sethi (supra), the reasonable amount towards loss of estate is Rs. 15,000/-, towards loss of consortium is Rs. 40,000/- and towards funeral expenses is Rs. 15,000/-,

which has been wrongly determined by the learned Tribunal.

15. Consequently, the judgment and order passed by the learned Tribunal is modified to the extent below, as far as it relates to grant of compensation.

A.

(i) Annual income of the deceased

-Rs. 2,78,455/-

(ii) 40% towards future prospect

Total

-Rs. 1,11,382/-

= Rs. 3,89,837/-

(iii) Total income after deduction of income tax of Rs. 6950/-

=Rs. 3,82,887/-

(iv) Dependency income after deducting one-fourth towards personal expenses (Rs. 95,721)

-Rs. 2,87,166/-

v) Total loss of dependency after applying multiplier of 17

= Rs.48,81,822/-

B.

Compensation towards conventional heads (i.e. loss of estate, loss of consortium and funeral expenses, etc.)

-Rs. 70,000/-

Total compensation

=Rs. 49,51,822/-

16. Thus, the total compensation to be given to the claimants shall be Rs. 49,51,822/- (Rupees Forty Nine lakh Fifty One Thousand Eight Hundred Twenty Two only) instead of Rs. 53,83,000/- (Rupees Fifty Three Lakh Eighty Three Thousand only) as awarded by the learned Tribunal, with an interest at the rate of 7 % per annum from the date of filing of the claim petition.

17. Consequently, appeal is partly allowed.

18. Let the entire amount as determined above, along with the interest of 7 % per annum from the date of filing of the claim petition be deposited by the appellant with the concerned Tribunal after adjusting the amount already deposited. After the entire amount is deposited by the appellant, let the same be

released in favour of the claimants within three weeks from the date of production of a certified copy of this order. The statutory amount of Rs. 25,000/- (Rupees Twenty Five Thousand only) be also remitted to the concerned Tribunal.

19. Let a copy of this judgment along with the lower court record be sent to the concerned Tribunal for onward compliance.

