

(2014) 12 UK CK 0031

In the Uttarakhand High Court

Case No : Appeal from Order No. 10 of 2009, Cross Objection No. 4943 of 2009
in Appeal from Order No. 10 of 2009 and Appeal from Order No. 198
of 2010

Uttarakhand Transport Corporation and Others

APPELLANT

Vs

Manwar Singh and Others

RESPONDENT

Date of Decision : 02-12-2014

Acts Referred:

Citation : (2014) 12 UK CK 0031

Hon'ble Judges : Servesesh Kumar Gupta, J

Bench : Single Bench

Advocate : Seema Sirohi, Advocates for the Appellant; Kurban Ali, Advocates for the Respondent

Judgement

Servesesh Kumar Gupta, J.—Having heard the rival contentions of learned counsel of all concerned, it transpires that the deceased, aged about 20 years, was trying to board the offending bus after fetching fruits from the market in the hilly terrain of District Pauri Garhwal. The bus of the Government was Delhi bound. He was serving as a pantry boy in some private concern and was earning a basic salary of Rs. 2,500/- per month, as per the pay certificate produced by the claimants before the Tribunal. Claimants are the parents and siblings of deceased. Driver of the bus was allegedly negligent who did not take notice of the boarding boy. Bus started moving, with the result, boy was run over by the rear wheels of the vehicle. The Tribunal taking the annual income of deceased as Rs. 36,000/- and applying the multiplier of 15 and considering the average age of parents as 44 years, has awarded the total compensation worth Rs. 2,56,500/-, making the Corporation as well as the driver of the bus jointly and severally liable. It was contended on behalf of learned counsel for the claimants that even if the basic pay of deceased is taken into consideration as Rs. 30,000/- per annum (Rs. 2,500 x 12 months) and if fifty percent thereof is reduced being the bachelor boy to meet out his own expenses, then his annual income comes to Rs. 15,000/- per annum, and as per the law laid down by the Hon'ble Apex

Court in the case of Rajesh and Others Vs. Rajbir Singh and Others, , there must be an addition of 50 percent to the actual income of the deceased while computing future prospects if the deceased victim was below 40 years. By application of this precedent, adding Rs. 7,500/- (50% of annual income of Rs. 15,000/-), the total annual income of deceased comes to Rs. 22,500/- per annum.

2. Learned counsel for the claimants has further placed reliance on another judgment of the Apex Court in case of M. Mansoor and Another Vs. United India Insurance Co. Ltd. Another, , wherein the judgment of Apex Court in case of Amrit Bhanu Shali and Others Vs. National Insurance Co. Ltd. and Others, , was relied. It was held in paragraph No. 17 that:-

"(17) The selection of multiplier is based on the age of the deceased and not on the basis of the age of the dependent. There may be a number of dependants of the deceased whose age may be different and, therefore, the age of the dependants has no nexus with the computation of compensation."

3. On the other hand, learned counsel for the Transport Corporation has also placed reliance upon another precedent of Hon"ble Apex Court in the case of The Municipal Corporation of Greater Bombay Vs. Shri Laxman Iyer and Another, , wherein it was held that on account of contributory negligence of deceased, the total amount can reasonably be reduced by 25 percent. However, in the given facts and circumstances, I find that 20 percent reduction towards the contributory negligence would meet the ends of justice.

4. This way, considering the age of the deceased as per the Second Schedule of Motor Vehicles Act, the multiplier of "16" is to be applied. Therefore, the total loss of dependency comes out to Rs. 3,60,000/- (22,500 x 16). However, after deducting 20 percent from this sum towards the contributory negligence, this figure is reduced to Rs. 2,88,000/-. In addition to, the claimants are entitled for Rs. 4,500/- towards loss of estate. Thus, the total compensation will be Rs. 2,92,500/-. They will also be entitled to get 8% simple interest per annum on this amount, as enhanced by this Court, from the date of Award i.e. 16.10.2008 till the date of realization, instead of from the date of filing of claim petition.

5. Furthermore, having regard to the entire facts and circumstances of the case, the Court also feels that the Tribunal has rightly attributed the liability jointly and severally upon the Uttarakhand Transport Corporation and its Driver.

6. Thus, in view of what has been stated hereinabove, the cross-objection (CLMA 4943 of 2009) moved by the claimants is allowed in the above terms. At the same time, the appeals, preferred by the Uttarakhand Transport Corporation as well as by the Driver (being A.O. Nos. 10/2009 and 198/2010) are dismissed. Interim order dated 15.1.2009 stands vacated.

7. The amount, so deposited by the Uttarakhand Transport Corporation, before this Court at the time of presenting the appeal, be also sent back to the

concerned Tribunal to be paid to the claimants. Let the L.C.R. be sent back to the Court concerned annexing therewith a copy of this judgment.