

(2005) 06 UK CK 0023
In the Uttarakhand High Court

Uttaranchal Transport Corporation

APPELLANT

Vs

Janki Dhanik and Another

RESPONDENT

Date of Decision : 28-06-2005

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2005) 3 ACC 541

Hon'ble Judges : Prafulla C. Pant, J;P.C.Verma, J

Bench : Division Bench

Judgement

Prafulla C. Pant, J.—This appeal, preferred u/s 173 of the Motor Vehicles Act, 1988, is directed against the judgment and award dated 31.1.2005, passed by Motor Accident Claims Tribunal/Additional District Judge (Fast Track Court), Haldwani, District Nainital, whereby Rs. 2,22,000/- has been awarded as amount of compensation to the respondents.

2. Brief facts of the case are that on 27.2.2004 at about 6.00 p.m., Shri Sanjay Dhanik (deceased) was travelling by bus, registration No. U.P. 06-4140, owned by the appellant. The bus was being driven rashly and negligently by its driver. Near Baldiyakhan, the bus fell into the deep george in which some 20 persons died, including above mentioned, Shri Sanjay Dhanik. Deceased was an Advocate in the High Court and was earning Rs. 6,000/- per month. He was aged 28 years at the time of his death. Claimants/respondents are his parents. Claimant/respondent No. 1 Smt. Janki Dhanik, aged 56 years is the mother of the deceased and claimant/respondent No. 2, Shri Mohan Singh Dhanik, aged 63 years is the father of the deceased. Before the Tribunal, appellant-Uttaranchal Transport Corporation, contested the claim petition, alleging that accident did not take place due to the negligence on the part of its driver rather it is alleged that another vehicle was coming from the opposite direction and to save the said vehicle, the bus fell into the deep george. However, death of Shri Sanjay Dhanik in the accident is not denied by the appellant. Learned Tribunal, after framing the necessary issues, recorded the evidence and after hearing the parties, allowed

the claim petition for Rs. 2,22,000/-, aggrieved by which this appeal has been preferred. Cross-objections also have been filed on behalf of the respondents.

3. We heard learned Counsel for the parties and perused the evidence on record. We also heard the parties on cross-objections.

4. The accident is not disputed in this case. It is also admitted that in the impugned accident, Shri Sanjay Dhanik died. It is also not denied that the ill-fated bus registration No. U.P. 06-4140 was owned by the appellant and was being driven by its driver. As to the negligence on the part of driver of the bus, had he not been negligent, he would have been able to stop the bus on the road on seeing coming vehicle from opposite direction. In the appeal, the only disputed question is as to the quantum of compensation awarded by the Tribunal. On behalf of the appellant, it is contended that the amount of compensation, awarded is excessive. On the other hand learned Counsel for the respondents, argued that the amount of compensation should have been awarded more than what has been awarded by the Tribunal. From the evidence, it appears that the deceased was an unmarried man of 28 years. It is also established from the evidence of P.W. 1 Shri Mohan Singh Dhanik (claimant-respondent No. 2) that the deceased was earning Rs. 6,000/- per month. Copy of the certificate of registration with U.P. Bar Council (paper No. 6-C/5), corroborates the fact that the deceased was a practising Advocate. There is no contrary evidence from the side of the respondents, showing that the income of the deceased was less than Rs. 6,000/-per month. That being so, the Tribunal has rightly assessed Rs. 72,000/- per annum as income of the deceased. We are in agreement with the Tribunal that one-third of the same would have been spent by the deceased on himself. Therefore, the financial loss of dependency comes out to be Rs. 72,000/- - 24,000/- = Rs. 48,000/- per annum. Claimants/respondents are parents of the deceased and their average age comes out to be approximately 60 years. As such, learned Tribunal has rightly applied the multiplier of 5 to calculate the amount of compensation to be awarded to the claimants. There is no illegality or factual error in the award, which from all corners shows that reasonable and just amount of Rs. 2,22,000/- has been awarded by the Tribunal, after adding Rs. 2,000/- towards funeral expenses and deducting Rs. 20,000/- as amount of ex gratia payment. In view of the above discussion, the appeal is liable to be dismissed. The appeal is dismissed. Cross-objections are also dismissed.