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(2021) 05 DEL CK 0136

In the Delhi High Court

Case No : MAC. Appeal No. 791 Of 2019, Civil Miscellaneous Application No. 41688 Of 2019

Uttrakhand Transport Corporation APPELLANT

Vs

Anandi Devi & Ors RESPONDENT

Date of Decision : 06-05-2021

Acts Referred:

Citation : (2021) 05 DEL CK 0136

Hon'ble Judges : J.R. Midha, J

Bench : Single Bench

Advocate : Garima Prashad, Shadab Khan, D.K. Sharma

Final Decision : Partly Allowed

Judgement

J.R. Midha, J

1. The appellant has challenged the award dated 24th April, 2019 whereby compensation of Rs.36,04,000/- has been awarded to the respondents.

2. The accident dated 09th June, 2013 resulted in the death of Bhagat Singh Rawat. The deceased was aged 38 years at the time of accident and was

working as an Assistant Team Leader with Bharti Walmart Pvt. Ltd. The deceased was survived by his widow, three daughters and mother who

claimed compensation.

3. The Claims Tribunal took the income of the deceased as Rs.18,062/-per month, added 40% future prospects, deducted 1/4th towards personal

expenses and applied the multiplier of 15 to compute the loss of dependency as Rs.34,13,700/-. The Claims Tribunal awarded Rs.1,20,000/- towards

loss of love and affection, Rs.40,000/- towards loss of consortium, Rs. 15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses. The

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total compensation awarded is Rs.36,04,000/- (Rs. 36,03,700/-rounded of).

4. Learned senior counsel for the appellant urged at the time of hearing that the deceased was contributory negligent and, therefore, the compensation

awarded to the respondents is liable to be reduced on account of the contributory negligence. It is further submitted that the deceased was travelling in

bus No.UA 07M 7791. When the bus reached Meerut by-pass, the deceased took his head out of the window seat whereupon his head hit against a

tractor trolley which resulted in fatal injuries. Reference is made to the FIR which records that the head of the deceased severed on account of

accident which resulted in the death. Reference is also made to the letter dated 21st June, 2013 in which the widow of the deceased admitted that the

head of the deceased was severed by some unknown vehicle which resulted in his death.

5. Learned counsel for the respondents/claimants submits that the deceased was not contributory negligent. Without prejudice, it is submitted that the

Claims Tribunal has taken future prospects of the deceased as 40% whereas the claimants are entitled to future prospects of 50% of the income of

the deceased for computation of the compensation.

6. This Court is of the view that the deceased was contributory negligent and, therefore, the compensation amount is liable to be reduced on account

of the contributory negligence of the deceased. With respect to the future prospects, Claims Tribunal ought to have awarded future prospects as 50%

of the income of the deceased. By reducing the compensation amount Â awarded to the respondents on account of the contributory negligence and by

taking into consideration the future prospects @ 50% and the other relevant facts and circumstances of this case, this Court is of the view that the

compensation of Rs.40,00,000/- including the interest would serve the ends of justice.

7. Learned senior counsel for the appellant submits that the appellant has already deposited Rs.36,00,000/- with the Registrar General of this Court

and the balance Rs.4,00,000/- shall be deposited with the Registrar General of this Court within four weeks.

8. Mr. D.K. Sharma, learned counsel for the respondents submits on instructions from the respondents that the respondents agree to the computation

of compensation of Rs.40,00,000/- including interest by this Court in terms of

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this judgment.

9. The appeal is partially allowed and the compensation awarded by the Claims Tribunal is reduced to Rs.40,00,000/- including interest.

10. The appellant had already deposited Rs.36,00,000/- with the Registrar General of this Court, out of which Rs.10,00,000/- was disbursed on 18th

September, 2020 and Rs.10,00,000/- was disbursed on 22nd October, 2020.

11. The respondents have filed the passbooks of their savings bank accounts with the relevant endorsement. The particulars of savings bank accounts

of respondents No. 1 to 5 are as under:

(i) Anandi Devi (Respondent No. 1) A/c No.91882010021438

Syndicate Bank, Sadh Nagar, Palam Colony,

Delhi IFSC Code: SYNB0009188

(ii) Namita Rawat (Respondent No.2) A/c No.31973613034

Palam New Delhi

IFSC Code: SBIN0011564

(iii) Ranjeeta Rawat (Respondent No.3) A/c No.31973625812

State Bank of India, Mahavir Enclave, Palam New Delhi

IFSC Code: SBIN0011564

(iv) Sandhya Rawat (Respondent No.4) A/c No.33127975550

State Bank of India, Mahavir Enclave, Palam New Delhi

IFSC Code: SBIN0011564

(v) Sushila Devi (Respondent No.5) A/c No.2871000100062085

Punjab National Bank, Chailusain, Uttarakhand IFSC Code: PUNB0287100

12. The Registrar General is directed to disburse the balance Rs.16,00,000/- along with accrued interest to the respondents in the following manner :-

(i) Rs.3,00,000/- be kept in FDR in the name of respondent No.3 Ranjeeta Rawat till she attains majority with cumulative interest. Upon attaining

majority, the bank shall transfer the interest to the aforesaid savings bank account of respondent No.3 and the principal amount of Rs.3,00,000/- be

kept in 30 FDRs of Rs.10,000/- each in the name of respondent No.3 for the period 1 month to 30 months respectively with cumulative interest.

(ii) Rs.3,00,000/- be kept in 30 FDRs of Rs.10,000/- each in the name of

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respondent No.2 Namita Rawat for the period 1 month to 30 months

respectively with cumulative interest.

(iii) Rs.3,00,000/- be kept in 30 FDRs of Rs.10,000/- each in the name of respondent No.4 Sandhya Rawat for the period 1 month to 30 months

respectively with cumulative interest.

(iv) Rs.7,00,000/- be kept in 70 FDRs of Rs.10,000/- each in the name of respondent No.1, Anandi Devi for the period 1 month to 70 months

respectively with cumulative interest.

(v) The accrued interest, if any, be transferred to the savings bank account of respondent No.1 mentioned in para 11 above.

(vi) All the original FDRs shall remain with UCO Bank, Delhi High Court Branch. However, the statement containing FDR number, amount, date of

maturity and maturity amount shall be furnished to respondents.

(vii) The maturity amounts of the aforesaid FDRs be released to the respondents, by transferring the same to their savings bank account as mentioned

order dated 22nd October, 2020.

(viii) No loan or advance or pre-mature discharge shall be permitted without the permission of this Court.

(ix) State Bank of India, Mahavir Enclave, Palam, New Delhi and Punjab National Bank, Chailusain Branch, Uttarakhand shall permit the respondents

to withdraw money from their savings bank accounts by means of a withdrawal form

13. The appellant is directed to transfer Rs.4,00,000/- to savings bank account of respondent No.1 with Syndicate Bank, Sadh Nagar, Palam Colony,

Delhi within four weeks.

14. List for reporting compliance on 05th July, 2021.

15. Copy of this judgment be sent to UCO Bank, Delhi High Court Branch; and Punjab National Bank, Chailusain Branch, Uttarakhand for

compliance.

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