

Kala Devi and ors. Vs. Sultan and anr.

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Court : Uttaranchal

Decided On : Feb-22-2006

Reported in : IV(2006)ACC757

Judge : Rajeev Gupta, C.J. and; M.M. Ghildiyal, JJ.

Appellant : Kala Devi and ors.

Respondent : Sultan and anr.

Advocate for Pet/Ap. : Mr. Lok Singh

Judgement :

Rajeev Gupta, C.J.

1. Mr. Lok Pal Singh, Advocate for the appellants; None for the first respondent. Mr. Subhas Upadhyaya. Advocate for the second respondent. They are heard.

2. This is claimants' appeal for enhancement of the compensation awarded by the Motor Accident Claims Tribunal/District Judge, Haridwar vide award dated 2nd February, 1996 passed in Motor Accident Petition No. 5 of 1995.

3. The claimants claimed compensation of Rs. 16,15,937 for the death of one Harish Chand, husband of appellant No. 1 and father of appellant Nos. 2 to 5, in the motor accident on 14th September, 1994 when his scooter bearing registration No. UHQ 7618 was dashed by the offending vehicle-bus belonging to the second

respondent-Haryana Roadways bearing registration No. HR 31-4884 resulting in his instantaneous death on the spot itself. The claimants further pleaded that Harish Chand was in regular service of Bharat Heavy Electricals Ltd., Haridwar and was getting salary of about Rs. 5,000 per month.

4. The driver and owner of the offending bus contested the claim and pleaded that the deceased himself was responsible for the accident and as such they are not liable to pay any compensation to the claimants.

5. The Tribunal on the evidence led by the parties held that the deceased Harish Chand died on account of the injuries sustained by him in the accident and that the accident occurred due to rash and negligent driving by the driver of the offending vehicle-bus. The Tribunal, therefore, held the driver and owner of the offending vehicle-bus liable to pay compensation to claimants severally and jointly. Considering the evidence led by the claimants in regard to the income of the deceased, the Tribunal assessed the income of the deceased at Rs. 1613 per month and the dependency of the claimants at Rs. 800 per month and Rs. 9,600 per annum. By multiplying the annual dependency of Rs. 9,600 with multiplier of 15, the compensation was assessed at Rs. 1, 44,000. The Tribunal further awarded a sum of Rs. 1,000 towards funeral expenses and Rs. 5,000 for loss of consortium to the widow. Thus, a total sum of Rs. 1,50,000 was awarded as compensation to the claimants for the death of Harish Chand in the accident with interest @ 12% per annum from the date of application (23rd January, 1995).

6. Mr. Lok Singh, learned Counsel for the appellants submits that the Tribunal has erred in assessing the income of the deceased at Rs. 1,613 only though the salary certificate adduced in evidence by the claimants established that the deceased's salary was Rs. 3,111.

7. Mr. Subhash Upadhyaya, learned Counsel for the Haryana Roadways on the other hand supports the award and submits that the Tribunal has rightly assessed the income of the deceased and the claimants' dependency on the material available in the record.

8. The finding that Harish Chand died on account of the injuries sustained by him in the accident and that the accident occurred due to rash and negligent driving of the offending vehicle are not in dispute in this appeal.

9. Harish Chand was in regular service in Bharat Heavy Electricals Ltd. Haridwar is established from record. He was getting monthly salary of Rs. 3,111 is also established from the salary certificate filed before the Tribunal. In our opinion, the Tribunal fell into error in assessing the income of the deceased at Rs. 1,613 only. The income of the deceased ought to have been assessed at Rs. 3,111 per month. We, therefore, propose to recompute the compensation taking the income of the deceased at Rs. 3,111 per month.

10. Considering that the deceased was maintaining a scooter, we deem it proper to assess the claimants' dependency at Rs. 1,500 per month and Rs. 18,000 per annum. By multiplying the annual dependency of Rs. 18,000 with multiplier of 15, selected by the Tribunal, the compensation works out to Rs. 2,70,000. By adding the sum of Rs. 1,000 and Rs. 5,000 awarded by the Tribunal towards funeral expenses and loss of consortium to the widow respectively, the total compensation to the claimants comes to Rs. 2,76,000.

11. The appeal filed by the appellants under Section 173 of the Motor Vehicles Act, therefore, is allowed in part. The compensation of Rs. 1,50,000 awarded by the Tribunal is enhanced to Rs. 2,76,000. The enhanced amount of compensation shall carry interest @ 6% per annum from the date of application (23rd January, 1995). No order as to costs.