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Court : Delhi

Decided On : Sep-26-1988

Reported in : I(1989)ACC78

Judge : S.B. Wad, J.

Appellant : Kela Devi and anr.

Respondent : Delhi Kashmir Goods Transport Company

Judgement :

S.B. Wad, J.

1. This is an appeal filed by mother, father and the grand mother of the deceased Udai Singh for enhancement of compensation. The claimants had claimed Rs. 40,000/- but the Tribunal had awarded Rs. 8740/- towards compensation.

2. Udai Singh died in an accident caused by truck number DIG 4785. The fact of the accident or the negligence of the truck Driver resulting into death of Udai Singh is not challenged in this appeal.

3. There is a cross appeal filed by the Insurance Company, originally M/s. Northern India General Insurance Company Ltd., now New India Assurance Company Ltd. It is contended in the cross-appeal that on the date of accident, namely, 7-3-1965 the vehicle was already sold by the original owners M/s. Delhi

Kashmir Goods Transport Company to one Purshottam Singh. The policy had, thereforee, come to an end. It is further stated that the sale took place on 2-1-1964. The policy in this case was taken out on 3-2-1965 by M/s. Delhi Kashmir Goods Transport Company (P) Ltd. and was valid up to 2-8-1965. On these facts, it is submitted that the Insurance Company is not liable to pay any compensation in this case. I am taken through the evidence of M/s. Delhi Kashmir Goods Transport Company (P) Ltd. as also of Purshottam Singh, the alleged seller and purchaser of the vehicle in question. It is impossible to believe the version of M/s. Delhi Kashmir Goods Transport Company (P) Ltd. for the simple reason that a Transport Company, when they have already sold the vehicle more than a year back, would not again take an insurance policy in their own name. This plea is not truthful and is, thereforee, rejected. This inference is also supported by the amended written statement filed by Purshottam Singh, which was allowed by the Tribunal. The appeal of the Insurance Company (FAO 41/75) is, thereforee, dismissed. It is held that the Insurance Company is liable to make the payment of compensation for the accident caused by M/s. Delhi Kashmir Goods Transport Company (P) Ltd. as they were the owners of the vehicle at the time of accident.

4. That takes us to the question of quantum of compensation. The deceased was 22/23 years old at the time of accident. He was earning Rs. 150/- per month. The Tribunal was wrong in holding that he was contributing only Rs. 40/- to his family. I have repeatedly held that where the income is as low as the minimum wages the family contribution should be liberally construed. Even otherwise the well established rule is that one-third of the earning is appropriated towards personal expenses of the deceased. I, thereforee, hold that the deceased was contributing Rs. 100/- per month towards the family maintenance. The Tribunal was quite right in applying twenty as the multiplier in this case I, thereforee, hold that the claimants are entitled to Rs. 2 1,000/- as the compensation. The claimants are also entitled to nine per cent simple interest from 1-4-1970 till the date of payment. The Insurance Company shall be entitled to the credit of the amount of the compensation already paid to the claimants. They will also be entitled to the credit for the proportionate deduction of interest.

For the reasons stated above the appeal is allowed. Counsel's fee Rs. 1,000/-.

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