

(2013) 03 AHC CK 0287

Allahabad High Court

Case No: First Appeal from Order No. 790 of 2013

Reliance General Insurance
Company Ltd.

APPELLANT

Vs

Smt. Safedi and Others

RESPONDENT

Date of Decision: March 22, 2013

Citation: (2013) 3 ACC 561 : (2014) ACJ 2070 : (2013) 5 ALJ 396 : (2014) 2 ALLMR 27

Hon'ble Judges: Rakesh Tiwari, J; Anil Kumar Sharma, J

Bench: Division Bench

Advocate: S.K. Mehrotra, for the Appellant; Namit Kumar Sharma, for the Respondent

Judgement

Anil Kumar Sharma, J.

We have heard Sri S.K. Mehrotra, counsel for the appellant, Sri Namit Kumar Sharma, counsel for the claimant-respondent Nos. 1 to 4, and perused the record as also papers filed along with memo of appeal. Challenge in this appeal is to the award dated 4.12.2012 passed by M.A.C.T./Additional District Judge, Court No. 2, Mathura in M.A.C.P. No. 475 of 2011, whereby compensation of Rs. 7,47,920/- together with simple interest @ 7% per annum from the date of filing of claim petition till final payment had been awarded to the claimant-respondent Nos. 1 to 4 on account of death of Natthi Lal in the instant motor accident.

2. It appears that on 11.04.2011, the deceased was going to Mathura from his motorcycle registration No. U.P.85-AA-8949 and when at about 2.30 p.m. he reached near Mandi Samiti Crossing on N.H.-2, the driver of Truck registration No. HR 69/7375 driving the vehicle rashly and negligently hit the motorcycle from behind causing fatal injuries to Natthi Lal. He was taken to Swarn Jayanti Hospital, Mathura, where he died on account of injuries on the same day. It was alleged that the deceased was aged about 58 years and had retired as Lieutenant from Army and was drawing Rs. 18,323/- per month pension. At the time of accident, he was working as Assistant Manager in Maharshi Saubhari Intermediate College, Sienh Palson, Mathura and was drawing Rs. 8,000/- per month salary. The claimant being

legal representative of the deceased filed claim petition for award of Rs. 47,00,000/-. The report of accident was lodged in Police Station-Highway, Mathura against the driver of the aforesaid truck. The owner and insurer contested the claim petition denying factum of accident. The appellant also pleaded breach of terms of Insurance Policy.

3. Learned counsel for the appellant has only questioned the quantum of compensation. Relying on the case of [Bhakra Beas Management Board Vs. Smt. Kanta Aggarwal and Others](#), he has vehemently argued that the widow of the deceased is getting family pension to the tune of 50% of pension which was being drawn by her husband so this amount was liable to be deducted from the income of the deceased for calculating fair and reasonable amount of compensation. On the other hand, counsel for the claimant-respondents has placed reliance on the case of [Mrs. Helen C. Rebello and Others Vs. Maharashtra State Road Transport Corpn. and Another](#), and has contended that family pension payable to the widow of the deceased is not liable to be deducted.

4. In this connection, we may refer to the cases of [United India Insurance Co. Ltd. Vs. Smt. Rajni Kumari and Others](#), and [United India Assurance Co. Ltd. Vs. Smt. Geeta Devi and Others](#). This Court speaking through one of us (Justice Anil Kumar Sharma) referring to the cases of Bhakra Beas Management Board (supra) and Helen C. Rebello and another (supra) and several other case laws have held that while computing compensation family pension being drawn by the widow is not liable to be deducted.

5. Learned counsel for the appellant has tried to distinguish these cases on the premises that in those cases the deceased were in service and had not retired. We are afraid how this contention is sustainable? It is wholly immaterial whether the Government servant concerned was in service or has attained the age of superannuation at the time of his death in motor accident and was getting pension. Family pension is earned by employee for the benefit of family in the form of his contribution, which is payable to his heirs after his death. Even if, a Government servant may be retired, dies natural death or on account of some ailment his widow is liable to receive family pension. Why this benefit should be given to a tortfeasor i.e. the driver of offending vehicle, or vehicle owner or insurer who has taken the life of the deceased in a motor accident. Thus, sole contention raised on behalf of the appellant for challenge in this award has no force.

6. No other point has been argued before us.

7. In view of the above discussion, we do not find any merit in the instant appeal which is accordingly dismissed. The statutory amount deposited by the appellant in this Court, be remitted to the concerned Tribunal within three weeks.