

(2002) 01 AHC CK 0206**Allahabad High Court****Case No:** F.A.F.O. No. 129 of 2002

Oriental Insurance Co. Ltd.

APPELLANT

Vs

Ganga Devi and Others

RESPONDENT

Date of Decision: Jan. 30, 2002

Citation: (2003) ACJ 1113

Hon'ble Judges: V.M. Sahai, J; Sudhir Narain, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

Sudhir Narain and V.M. Sahai, JJ.

This appeal is directed against the award of the Motor Accidents Claims Tribunal dated 30.10.2001 awarding a total sum of Rs. 2,47,700 as compensation to the claimants-respondents.

2. The claim petition was filed with the allegations that on 13.6.1996 at about 7.30 a.m. the deceased Jagram, the husband of respondent No. 1 was travelling in tractor No. UP 92-1098 along with one Ghana-ram. Tractor was loaded with the cement poles and aluminium wire for the purpose of installation of electric connection to be installed on the tube-well of the deceased through electricity department. The tractor, due to negligent driving of the driver, overturned, on account of which the deceased received serious injuries resulting into his death. He was aged about 32 years and was working on the post of supervisor in a steel factory at New Delhi and was earning Rs. 2,500 per month. He died leaving behind him, his widow and three minor children.

3. The claim petition was contested by the appellant on various grounds. It was contended that the tractor was to engage itself only for agricultural purposes and not for carrying goods and it was a breach of the term of the insurance policy and, therefore, the appellant was not liable to pay any damages so as to indemnify the owner of the tractor.

4. The Tribunal has considered this aspect of the matter and recorded a finding that driver of the tractor, without knowledge of the owner of the tractor, had taken the goods and the passenger on hire.

5. Considering the facts and circumstances of the case, we do not find that the view taken by the Tribunal is erroneous.

6. The appeal is, accordingly dismissed.

7. The amount of Rs. 25,000 deposited in this court by the appellant shall be remitted to the Tribunal within one month from today by the Registry and shall be adjusted in the deposits to be made by the appellant.