

(2012) 12 AHC CK 0215

Allahabad High Court

Case No: F.A.F.O. No. 2823 of 2010

U.P.S.R.T.C.

APPELLANT

Vs

Dhaniram and Others

RESPONDENT

Date of Decision: Dec. 19, 2012**Acts Referred:**

- Motor Vehicles Act, 1988 - Section 173

Citation: (2013) 1 AWC 580**Hon'ble Judges:** Sunil Ambwani, J; Pankaj Naqvi, J**Bench:** Division Bench**Advocate:** V.C. Dixit, for the Appellant; Anshu Chaudhary, for the Respondent**Final Decision:** Allowed

Judgement

Sunil Ambwani and Pankaj Naqvi, JJ.

We have heard Shri V.C. Dixit, learned counsel appearing for the U.P. State Road Transport Corporation. Shri Anshu Chaudhary appears for the claimants-respondents. This first appeal from order u/s 173 of Motor Vehicles Act, 1988 arises out of judgment and award dated 9.3.2010 passed by the Motor Accident Claims Tribunal, Etah in Motor Accident Claim Petition No. 228 of 2008, Dhaniram and others v. Regional Manager, U.P. State Road Transport Corporation, Aligarh, by which the Tribunal has awarded a sum of Rs. 3,67,000 with 6.5% interest from the date of filing of the claim petition.

2. The Tribunal found that Kamlesh @ Kamla Devi was travelling in a roadways bus No. U.P. 81R-9529 from Kashganj to Piwari. When she was alighting from the bus. It suddenly started moving on which she fell down and suffered injuries on account of which she died. The Tribunal has relied upon the statement of eye-witnesses of the accident including Madan Lal P.W. 2, who had witnessed the accident.

3. On the assessment of compensation the Tribunal has considered the notional income of the deceased, who was a housewife at Rs. 3,000 per month and after

giving deduction of one-third towards personal expenses, worked out the compensation by applying the multiplier of 15 on the age of the deceased, at 40 years. The Tribunal also awarded Rs. 2,000 for funeral expenses and Rs. 5,000 for loss of consortium.

4. Shri V.C. Dixit appearing for the Corporation states that the driver was not at fault and that no criminal case was instituted against him. He submits that the multiplier has been wrongly applied at 15, whereas on the age of the deceased, the multiplier of 14 was applicable.

5. On the question of negligence of the driver of the bus, the Tribunal has recorded findings of fact based on the evidence of the eye-witness of the accident. We do not find any error in these findings as the deceased had died on account of injuries suffered while alighting from the bus in which she had fallen down and died on the spot.

6. So far as quantum is concerned, on the age of the deceased in accordance with [Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another](#), the multiplier of 14 was applicable. The Tribunal has wrongly applied the multiplier of 15 for assessing the compensation.

7. The award is consequently modified to the extent of application of multiplier at 15. The loss of income is assessed at Rs. 3,36,000 as against Rs. 3,60,000 worked out by the Tribunal. The award will thus be reduced by Rs. 24,000 only. The award of Rs. 2,000 towards funeral expenses and Rs. 5,000 for loss of consortium does not require any modification.

8. The first appeal from order is partly allowed reducing the award to Rs. 3,43,000 with interest at 6.5% awarded by the Tribunal from the date of presentation of the claim petition. The Corporation will deposit the amount within six weeks after adjusting the statutory deposit of Rs. 25,000.

9. So far as release and deposit of the amount is concerned, the Tribunal will give the same treatment proportionally as given in the award dated 9.3.2010. The amount of Rs. 25,000 deposited in this Court shall be remitted to the Motor Accident Claims Tribunal within a month.