

**(2002) 11 AHC CK 0147**

**Allahabad High Court**

**Case No:** F.A.F.O. No. 2318 of 2002

United India Insurance Co. Ltd.

APPELLANT

Vs

Banshidhar Gupta and Others

RESPONDENT

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**Date of Decision:** Nov. 26, 2002

**Acts Referred:**

- Motor Vehicles Act, 1988 - Section 147(3), 149(2)

**Citation:** (2003) 1 ACC 572 : (2004) ACJ 111

**Hon'ble Judges:** S.P. Srivastava, J; M.P. Singh, J

**Bench:** Division Bench

**Final Decision:** Dismissed

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### **Judgement**

Srivastava and Singh, JJ.

Heard the learned counsel for the insurer appellant.

2. The insurer appellant has filed this appeal u/s 173 of Motor Vehicles Act feeling aggrieved by the award of an amount of Rs. 2,18,000 to claimants-respondents in the proceedings u/s 166 of Motor Vehicles Act on account of the untimely death of Kalpana Gupta in the accident involving the offending motor vehicle which had been insured by the appellant.

3. The Claims Tribunal on a careful consideration of the evidence and the materials brought on record, had come to the conclusion that the offending motor vehicle was being driven rashly and negligently at the time of the accident. The amount of compensation had been determined taking the income of the deceased at a figure of Rs. 12,000 per annum. While so determining the income, the Tribunal had valued the services rendered by the deceased who was a housewife. The deceased was aged about 29 years at the time of her death, the multiplier of 18 had been utilised.

4. It may be noticed that the Supreme Court in its decision in the case of [Lata Wadhwa and Others Vs. State of Bihar and Others](#), , had observed as follows:

"...It is true that the claimants, who ought to have given data for determination of compensation, did not assist in any manner by providing the data for estimating the value of services rendered by such housewives. But even in the absence of such data and taking into consideration, the multifarious services rendered by the housewives for managing the entire family, even on a modest estimation, should be at least Rs. 3,000 per month or Rs. 36,000 per annum. This would apply to all those housewives between the age group of 34 and 59 and as such who were active in life..."

5. Taking into consideration the totality of the circumstances as brought on record and the number of dependants, the amount of compensation determined by the Tribunal cannot be said to be excessive.

6. In the present case, the insurer appellant was required to discharge the statutory liability cast upon it for the payment of the awarded amount to claimants. The inter se dispute between the owner-insured and the present appellant in regard to any breach of the terms and conditions of the insurance policy could be decided in appropriate proceedings initiated by the insurer appellant against the owner-insured after the amount of compensation had been paid to the claimants.

7. The learned counsel for the appellant has tried to assail the findings returned against appellant by the Tribunal but could not demonstrate that these findings can be taken to be suffering from any such legal infirmity which may justify any interference therein by this court. These findings are amply supported and warranted by the evidence brought on record.

8. No justifiable ground has been made out for any interference in the impugned award by this court.

9. This appeal consequently fails and is dismissed in limine leaving it open to the insurer appellant to initiate appropriate proceedings for the refund of the amount paid to claimants from the owner-insured in accordance with law.

10. As prayed, the amount of Rs. 25,000 deposited in this court u/s 173 of the Motor Vehicles Act be remitted to the concerned Motor Accidents Claims Tribunal so that it may be adjusted against the amount to be paid to the claimants.