



2026:AHC:189318

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL FROM ORDER No. - 2765 of 2003

New India Assurance Co Ltd.

.....Appellant(s)

Versus

Smt Jaya Aditya And Others

.....Respondent(s)

Counsel for Appellant(s) : Ramesh Singh

Counsel for Respondent(s) : Dinesh Kumar Gupta, Ram Kishor Gupta, Shiv Shankar Gupta

Court No. - 54

HON'BLE ANIL KUMAR-X, J.

1. Shri Pawan Kumar Singh, learned counsel for the appellant and Shri Ram Om Vikram Chauhan, learned counsel for respondents/claimant are present. However, none has appeared on behalf of the respondent nos.4 and 5 despite notice have been duly served on them.

2. This appeal has been filed on behalf of the appellant-Insurance Company with a prayer to set aside the impugned judgment and decree dated 6.9.2003 passed by Motor Accident Claims Tribunal, Hamirpur in M.A.C.P. No.62 of 2000 (Jaya Aditya & Ors. vs. Rajindra Singh Rana & Ors.) whereby the claim petition was allowed and an amount of Rs.15,33,656/- has been awarded as compensation to the claimants.

BRIEF FACTS

3. Briefly stated, deceased Sharda Prasad, on 29.09.1999, boarded Bus No. UP-07/4543 at Karn Prayag for going to Rishikesh, from where he had to proceed to Dehradun. During the journey, the said bus, being driven rashly and negligently, lost its balance and fell into Alaknanda River. In the said accident, deceased Sharda Prasad and four other passengers died.

4. The claim petition was filed by the dependants of the deceased claiming compensation for his death. It was asserted that the deceased was working as Junior Telephone Officer and was drawing a basic pay of Rs.7,500/- per month and his total salary was Rs.11,927/- per month. The Tribunal, after considering the evidence available on record, awarded a

sum of Rs.15,33,656/- as compensation.

ARGUMENTS ON BEHALF OF THE APPELLANT

5. Learned counsel for the appellant-Insurance Company has submitted that the Tribunal has committed an error in determining the income of the deceased on the basis of the salary asserted by the claimants. No salary certificate was produced and the alleged salary of the deceased was not duly proved by reliable evidence. Therefore, the income taken by the Tribunal for the purpose of computation of compensation is not justified.

6. It is further submitted that the date of birth of the deceased, as borne out from the relevant records, was 19.07.1962. Thus, on the date of accident, i.e. 29.09.1999, the deceased was aged about 37 years and 2 months, whereas the Tribunal has wrongly recorded his age as 36 years. It is, therefore, submitted that the compensation awarded by the Tribunal is on the higher side and deserves to be reduced.

ARGUMENTS ON BEHALF OF RESPONDENTS-CLAIMANTS

7. Learned counsel for the respondents-claimants has submitted that the deceased was working as Junior Telephone Officer and his salary was duly considered by the Tribunal on the basis of the evidence available on record. The compensation awarded by the Tribunal is just and reasonable and does not call for any interference.

8. It is further submitted that the Tribunal has rightly assessed the age of the deceased and determined the compensation accordingly. The appellant has failed to point out any material error in the award passed by the Tribunal. The appeal, therefore, deserves to be dismissed.

CONCLUSION

9. I have considered the submissions advanced by learned counsel for the parties and perused the record.

10. There is no dispute with regard to the factum of accident and death of deceased Sharda Prasad. The award has been challenged by the appellant only on the quantum of compensation.

11. So far as the income of the deceased is concerned, the submission of learned counsel for the appellant that the salary of the deceased was not proved, cannot be accepted. From the record, it appears that a salary certificate was produced before the Tribunal. It is true that the said salary certificate did not contain all the entries relating to the salary of the deceased and mainly contained the details of basic pay, dearness allowance and other allowances. This aspect was also considered by the Tribunal.

12. So far as the income of the deceased is concerned, the submission of learned counsel for the appellant deserves consideration to the extent that it was incumbent upon the claimants to duly prove the salary certificate by summoning an official from the concerned department along with the relevant records. A mere production of the salary certificate, without proving the same in accordance with law, could not, as a matter of principle, be treated as duly proved evidence of the income of the deceased.

13. However, the approach adopted by the Tribunal, though legally unsustainable, cannot be said to be wholly unjustifiable in the peculiar facts of the present case. The deceased was employed at Dehradun and the claim petition was filed at Hamirpur. The salary certificate, therefore, was required to be proved by summoning the concerned departmental official along with the relevant records. For summoning such official from Dehradun, the claimants were required to undertake the process of identifying the appropriate official, securing his presence before the Tribunal and depositing the prescribed process fee along with the amount equivalent to his one day's salary in the Treasury, as required under the procedure for summoning a witness in civil proceedings. For the widow of the deceased prosecuting the claim at Hamirpur, undertaking such exercise at Dehradun was undoubtedly an arduous task.

14. Thus, though the salary certificate ought to have been duly proved by examining the concerned official along with the relevant records, the circumstances in which the Tribunal accepted the same cannot be completely ignored. The absence of examination of the departmental official, therefore, by itself, cannot justify discarding the salary certificate altogether, particularly when the Tribunal considered the material

available on record for determining the income of the deceased. The approach of the Tribunal, though not strictly sustainable in law, cannot, in the peculiar circumstances, be held to be so unjustifiable as to warrant interference with the award on this ground alone.

15. The appellant has also challenged the age of the deceased. It is submitted that as per the relevant record, the date of birth of the deceased was 19.07.1962. The accident took place on 29.09.1999. Thus, on the date of accident, the deceased was aged about 37 years and 2 months. The Tribunal, however, has taken his age as 36 years.

16. The aforesaid difference, in the facts of the present case, does not materially affect the determination of compensation. The deceased was admittedly below 40 years of age on the date of accident. Therefore, even if his age is taken as 37 years and 2 months instead of 36 years, the same would not result in any change in the applicable multiplier. Consequently, the objection raised by the appellant regarding the age of the deceased does not provide any ground for reducing the compensation awarded by the Tribunal.

17. Thus, the grounds raised by the appellant challenging the income as well as the age of the deceased do not warrant interference with the award. The compensation awarded by the Tribunal does not call for any reduction on these grounds.

18. In view of the aforesaid, this appeal is **dismissed** and the impugned award of the Tribunal is affirmed.

(Anil Kumar-X,J.)

September 10, 2026
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