2025:UHC:10913

HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal From Order No.118 of 2012

Surender Kumar --Appellant

Versus

Safik Ahmed and Others --Respondents

Presence:-

Mr. Shashi Kant Shandilya, learned counsel for appellant.

Mr. I.P. Kohli, learned counsel for respondent No.4-Insurance Company.

Hon'ble Pankaj Purohit, J. (Oral)

This appeal from order has been filed by the appellant against the judgment and award dated 23.12.2011, passed by learned Additional District Judge/M.A.C.T., Roorkee, District Haridwar, in M.A.C.P. No.113 of 2011 *Surender Kumar Vs. Safik Ahmed and Ors.*, whereby, respondent Nos.1 to 3 was directed to deposit the compensation amount of Rs.60,000/- within one month from the date of judgment and award i.e.23.12.2011 along with interest of 6% p.a. from the date of filing the claim petition i.e.08.06.2011.

2. The brief facts of the case are that on 01.06.2011, father of appellant Late Dalmeer Singh was going from Roorkee to Manglore in a motorcycle, when he reached near Godawari Hotel at about 05:00 PM, the driver of Tata 709 Truck No. HR 46A-5162 driving the truck at high speed and carelessly hit the motorcycle from behind, due to which father of appellant-Late Dalmeer Singh died on the spot due to injuries sustained in the accident.

3. The first information report of the accident was registered on 01.06.2011 at P.S. Kotwali Manglore, District Haridwar as Case Crime No.193 of 2011 under Sections 279, 304A IPC. The father of appellant was a healthy man of about 62 years and used to do his own

farming and operated his own sugarcane pulley, from which he used to earn Rs.3,300/- per month. Appellant was completely financially and socially dependent upon his deceased father. Due to his untimely death, appellant had suffered mental, financial and physical loss and the accident occurred due to the fault of driver of Tata 709 Truck No. HR 46A-5162, thus, he had requested for compensation of Rs.17,10,000/- from the respondents.

4. Despite sufficient service, respondent Nos.1 to 3 did not appear before the learned Court below and against them, order was passed ex-parte on 06.09.2011.

5. Respondent No.4-Insurance Company filed written statement rejecting the appellant's averments and stated that at the time of accident, driver of offending vehicle was driving the vehicle without a valid driving license, valid R.C., fitness certificate and permit, therefore the appellant is not entitled to any compensation.

6. The learned Claims Tribunal framed as many as 3 issues on the basis of pleading of the parties, which are reproduced as below:

> *(1) Whether the alleged accident occurred on 01.06.2011 at about 05:00 PM, at Godawari Hotel, G.T. Road, P.S. Kotwali Manglore, District Haridwar, while the appellant's father Late Dalmeer Singh was going from Roorkee to Manglore on a motorcycle and when he reached near Godawari Hotel, the driver of Tata 709 no. HR 46A 5162, while driving truck rashly and negligently hit the motorcycle of deceased Dalmeer Singh from behind, due to which Dalmeer Singh suffered serious injuries and died on the spot?*
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> *(2) Whether at the time of accident, the driver of truck Tata 709 no.HR 46A 5162No.21/2005 has a valid driving license, valid R.C., Fitness, Permit, as stated by respondent No.4 in his counter claim?*
>
> *(3) Whether the appellant entitled to any compensation? If so, from whom and how much?*

7. After going through the material available on record and the evidence of the parties adduced during trial, the learned Claims Tribunal vide its judgment and

award dated 23.12.2011 directed respondent Nos.1 to 3 to deposit the compensation amount of Rs.60,000/- within one month from the date of judgment and award i.e.23.12.2011 before the Claims Tribunal along with interest of 6% p.a. from the date of filing the claim petition i.e.08.06.2011.

8. Feeling aggrieved of the aforesaid judgment and award dated 23.12.2011, the appellant has preferred this appeal before this Court under Section 173 of Motor Vehicle Act, 1988.

9. Learned counsel for the appellant submits that the appellant is 25 years' of age and married and is entitled to get Rs.17,10,000/- as compensation with 12% interest p.a. from the date of filing the claim petition as the learned Claims Tribunal while passing the impugned award did not consider the fact that the deceased was the only earning member of the family and after his death, there was no other source of income in the family and further the appellant was dependent on deceased, though it was fully proved by evidence before the Tribunal. He further submits that the learned Tribunal on the basis of presumption and against the settled principle of law, only awarded Rs.50,000/- for No Fault Liability and future income loss was not awarded to the appellant.

10. It is further contended by him that the learned Tribunal wrongly fixed the liability of compensation on respondent Nos.1 to 3, though it is settled law that First Insurance Company shall pay the compensation to the claimant and thereafter, the Insurance Company my recover it from the owner or driver.

11. Per contra, learned counsel for respondent No.4-Insurance Company submits that there is no illegality in the impugned judgment and award dated

23.12.2011, as the appellant is entitled to receive the compensation of Rs.50,000/- for No Fault Liability as per the legal proposition of Hon'ble Supreme Court and further expenses occurred in cremation of deceased and for additional property loss i.e. Rs.10,000/- was also awarded, thus, appellant is entitled to total compensation amount Rs.60,000/-.

12. Having carefully considered the submissions made by learned counsel for the parties and having perused the material available on record as well as the impugned judgment and award dated 23.12.2011, this Court finds that since the deceased was of 62 years and the appellant is 25 years and he is married, it is not possible for a young man of 25 years to be dependent on his 62 years' old father, thus, this Court is not satisfied with the arguments advanced by learned counsel for the appellant. There is no illegality in the impugned judgment and award dated 23.12.2011. I am in full agreement with the reasoning given by learned Claims Tribunal while passing the impugned judgment and award. The compensation awarded in the present case is in consonance with the settled principles and cannot be said to be either incisive or unjustified.

13. In this view of the matter, I do not find force in the instant appeal and consequently, the same is dismissed.

14. No order as to costs.

15. Let the T.C.R. be immediately sent back to the learned Trial Court for consignment.

(Pankaj Purohit, J.)
09.12.2025

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