

**IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL**

**Appeal from Order No.343 of 2013**

Uttarakhand Transport Corporation

...Appellant

**Versus**

Smt. Durga Devi & others

... Respondents

Mr. Ashish Joshi, Advocate for the appellant.

Mr. B.S. Adhikari, Advocate for the claimants/respondent nos.1 and 2

30<sup>th</sup> June, 2016

**Hon'ble Servesh Kumar Gupta, J.**

Having heard the rival contentions, it is abundantly clear that a bus of Uttarakhand Transport Corporation (bearing no. UK-07PA- 1036), Jalandhar bound was overturned in the wee hours of 06.07.2011. The bus was carrying the passengers from Uttarakhand. Deceased Shekhar Ram was seriously injured in such accident and later on, he succumbed to the injuries. The accident has not been denied as well.

The only contention of learned counsel on behalf of the appellant is that the deceased was not travelling in the bus because no passenger ticket was produced.

This contention of learned counsel for the appellant is wholly unsustainable and is hereby rejected for the reason that the injured Shekhar Ram was drowned in the water, when the bus fell in the pond. So, there was no question of finding out the ticket, which remains in a very poor quality thin paper.

That apart, there are several papers on the record, which have been discussed in Para No.12 of the impugned judgment and the same is speaking in so many words regarding travelling of deceased in the ill-fated bus.

The only argument, which can be accepted on behalf of the appellant is that since deceased was an unmarried youth, hence, he would have expended one-half of his total income towards personal expenses. So, this way, instead of deducting  $1/3^{\text{rd}}$  from the total annual income of the deceased, learned Trial Judge would have deducted one-half.

The total annual salary of the deceased was rupees one lakh two thousand and this way, after deducting one-half from his salary, it comes to rupees fifty-one thousand per annum and after applying the multiplier of "11", the amount comes to rupees five lakh sixty one thousand.

Rest of the amount, as has been awarded by the Tribunal, shall remain untouched.

Subject to the above modification, this appeal is partly allowed.

FDR shall immediately be en-cashed and be handed over to the claimants, as per their respective shares, by the Tribunal concerned.

Compulsory statutory amount shall be returned to the Tribunal concerned.

LCR be also sent back.

**(Servesch Kumar Gupta, J.)**