(2010) 07 RAJ CK 0020

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 373 of 1998

Amar Singh APPELLANT

Vs

Ramlal and others RESPONDENT

Date of Decision : 27-07-2010

Acts Referred:
Motor Vehicles Act, 1988 — Section 166, 173

Citation : (2011) ACJ 2301

Hon'ble Judges : A.M. Sapre, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

A.M. Sapre, J.—This is a miscellaneous appeal filed by the owner of vehicle u/s 173 of the Motor Vehicles Act (for short called ''the Act'') against an award dated 6.4.1998, passed by Motor Accidents Claims Tribunal, Jalore in Claim Case No. 62 of 1993.

2. By impugned award, the Tribunal partly allowed the claim petition of respondent No. 1 filed u/s 166 of the Act and awarded a total compensation of Rs. 1,08,590 to claimant for the injuries sustained by him in the vehicular accident. However, while passing the award, the Tribunal exonerated the insurance company from the liability and confined it against the owner of offending vehicle. In other words, the Tribunal allowed the claim petition in part only against the owner of vehicle but rejected the same against the insurance company. It is against this award that the owner of offending vehicle alone has filed the appeal.

3. Facts of the case are these.

4. It is a case of injury sustained by claimant (respondent No. 1) in a vehicular accident that occurred on 24.11.1992 when he was hit by one jeep bearing No. RRT 4840 owned by respondent No. 2 (NA 2) and driven by appellant. In this accident, the claimant sustained fracture in his leg, which caused him disability in

the leg, so also expenses which he had to incur in receiving medical treatment for undergoing operation and oral treatment. The Tribunal appreciated the evidence adduced by claimant on these issues, viz., whether claimant suffered injury and if so the extent of damage caused and accordingly awarded a total compensation of Rs. 1,08,590. So far as claimant is concerned, he is satisfied with what is awarded to him and hence has not filed any appeal or cross-objection. So far as driver, owner and insurer are concerned, only driver of offending vehicle (jeep) felt aggrieved and filed this appeal.

5. In this appeal, the appellant, i.e., the driver of offending vehicle has raised two points. In the first place, he has contended that compensation awarded to claimant for the injuries sustained is on higher side and hence it is liable to be reduced. Secondly, it is contended that the Tribunal erred in exonerating the insurance company from the liability. According to appellant, the insurance company should have been held liable to suffer the award along with the owner and driver of offending vehicle.

6. Having heard the learned counsel for the parties and on perusal of record of the case, I am inclined to dismiss the appeal as, in my view, both the contentions raised by the appellant have no merit on the facts brought on record by the parties by way of pleadings and evidence.

7. Coming first to the question relating to quantum of compensation awarded to the claimant for the injuries sustained, I have not been able to notice any kind of infirmity in the impugned finding recorded by the Claims Tribunal on this issue. It is, in my opinion, proper calling for no interference.

8. Looking to the nature of injury, i.e., fracture in leg, its extent of disability, the period (6 months) taken for receiving treatment, his early middle age, the expenses incurred in receiving treatment, a sum of Rs. 1,08,590 cannot be said to be on higher side. It is just and proper and hence cannot be enhanced or reduced. I, accordingly, uphold the finding of the Tribunal on the issue and in consequence, reject this submission of appellant.

9. Coming to the next question as to whether Tribunal was right in exonerating the insurance company, 1 am inclined to uphold the factual finding of Tribunal on this issue. It is not in dispute that driver was not holding a licence to drive ''jeep'' but was holding a licence to drive only ''tractor'' as is clear from Exh. P16. It was thus a case where driver was not holding valid licence to drive the vehicle in question and hence Tribunal did not commit any illegality in exonerating the insurance company. If the driver is found to have no valid licence at the time of accident as per provisions of the Act, then insurer cannot be held liable to suffer the liability. The finding of the Tribunal on this issue cannot be held to be in any way perverse or illegal. I thus uphold it.

10. In view of foregoing discussion, the appeal is held to be devoid of any merit. It is accordingly dismissed.

No costs.

