

(2001) 01 JH CK 0014
In the Jharkhand High Court
Case No : M.A. No. 177 of 1999 (R)

Arbind Kumar

APPELLANT

Vs

Pradeep Jaiswal and Another

RESPONDENT

Date of Decision : 30-01-2001

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 41 Rule 11
Motor Vehicles Act, 1988 — Section 166
Penal Code, 1860 (IPC) — Section 279, 337

Citation : (2001) 01 JH CK 0014

Hon'ble Judges : Gurusharan Sharma, J

Bench : Single Bench

Advocate : Ram Kishore Prasad, for the Appellant; Dilip Jerath, for the Respondent

Final Decision : Dismissed

Judgement

Gurusharan Sharma, J.—Heard the parties, perused lower Court records and with their consent, this appeal is disposed of under Order 41, Rule 11 of the Code of Civil Procedure. Appellant was injured in a motor accident on 14.2.1994, when he was dashed from behind by a private Fiat car (UTZ 4444). He filed claim case No. 6 of 1994 for compensation u/s 166 of the Motor Vehicles Act, 1988. It was established that accident took place on account of rash and negligent driver of the said car. Respondents 1 and 2 respectively were impleaded in the claim case as owner and driver of the car in question, but they denied their status as owner and driver of the said car. The claimant miserably failed to prove that respondent No. 1 was owner of vehicle involved in the accident. So far as respondent No. 2 to be the driver of the said vehicle was concerned, claimant produced Exts. 7 and 8, namely, charge-sheet and judgment in G.R. No. 1266 of 1993, on the basis of Town P.S. Case No. 329 of 1993, under Sections 279 and 337 of the Indian Penal Code against respondent No. 2, wherein he was convicted. However, respondent No. 2 preferred Cr. Appeal No. 50 of 1998 against the aforesaid conviction, which was allowed on 21.5.1999 and respondent No. 2 was acquitted. A copy of the

said judgment has been annexed as Annexure A to the counter-affidavit, filed in this appeal on behalf of respondents. It was observed in the said judgment that no evidence was led on the part of prosecution to show nexus of appellant (respondent No. 2 herein) with the vehicle in question (UTZ 4444). Notwithstanding there being positive and unimpeachable evidence about his identity, the appellant should be saddled with its consequence and that being so, it was held that finding recorded by the learned Magistrate was not sustainable in law. The appellant (respondent No. 2 herein) was, therefore, acquitted of the charges. In the aforesaid circumstance, in my opinion, the Tribunal rightly held that claimant was not entitled to get any compensation from respondents, in respect of the injuries sustained by him in the motor accident in question. There is no merit in this appeal. It is, accordingly, dismissed.

2. Appeal dismissed.