
(2007) 04 JH CK 0095
In the Jharkhand High Court

Archana Goel and Others

APPELLANT

Vs

New Ratan Balasia and Another

RESPONDENT

Date of Decision : 05-04-2007

Acts Referred:

Citation : (2009) ACJ 295 : (2007) 3 JCR 49

Hon'ble Judges : Rakesh Ranjan Prasad, J;M.Y. Eqbal, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

R.R. Prasad, J.—The claimants have preferred this appeal against the order by which Motor Accident Claims Tribunal, Hazaribagh dismissed the claim application whereby claimants had sought for compensation of Rs. 6 lacs on account of death of Uma Prakash Goel due to vehicular accident.

2. It is the case of the claimant that the deceased Uma Prakash Goel while was traveling in a car, bearing registration No. BHG-9493 hired from Nav Ratan Balasia, who was made as opposite party No. 1, along with others in the night of 31/1.6.1990, it dashed against a tree, as a result of which it turned turtle and caught fire and the deceased received burn injury that proved to be fatal.

3. According to claimants, vehicle was insured with the National Insurance Company. However, opposite party No. 1 (Nav Ratan Balasia) having appeared in the case did file his written statement denying that he was the owner of the vehicle on the date of accident. It was his case that before the accident, he had sold the car to one Ram Gopal Baiswal which fact somewhat finds support from the written statement filed on behalf of the Insurance Company wherein it has been stated that insurance policy at the time of occurrence never stood in the name of opposite party No. 1, rather it stood in the name of on one CM. Sao of Dhanbad (respondent No. 1)

4. It appears that it is the case of the claimants that the car dashed against the tree which caught fire as a result of which deceased sustained injury and died,

but evidence adduced on the point of accident on behalf of the claimants was otherwise wherein one of the witnesses, who was traveling on the said car on the fateful day did depose that when the car reached near Bishungarh, one truck coming from opposite direction dashed against the car, as a result of which it dashed against a tree. In the circumstances, it was held by the Tribunal that it is not due to negligence of the driver of the car rather due to negligence of the driver of the truck, the accident did occur and hence, neither the owner of the car nor the Insurance Company is liable to pay compensation to the claimants and thereby the claim application was dismissed.

5. Being aggrieved with the dismissal of the claim case, claimants have come to this Court.

6. Learned Counsel appearing for the appellants submits that when it has been proved that the deceased died arising out of motor vehicle accident, the Tribunal should not have dismissed the claim application. On the other hand learned Counsel appearing for the respondent No. 1 submits that on the wrong assertion made in an affidavit Chandra Mohan Shaw had been substituted as respondent No. 1 before the tribunal but in the impugned order name of Nav Ratan Balasla remained there instead of Chandra Mohan Shaw, their Court allowed the appellant to substitute the name of Chandra Mohan Shaw in place of Nav Ratan Balasia but, in fact, Chandra Mohan Shaw was never made party before the Court below.

7. Having heard learned Counsel appearing for the parties and on perusal of the record, I do find that the Tribunal after noticing the glaring difference in between the case as made out in the claim application and the evidence adduced on behalf of the claimants on the point of manner of accident, the Tribunal did hold that the accident never took place in the manner as has been claimed on behalf of the claimants and, therefore, neither the driver and the owner of the car nor the Insurance company can be held to be liable to pay compensation.

8. In that view of the matter the Tribunal has not committed any illegality in dismissing the claim application. Hence, this appeal is dismissed.

M.Y. Eqbal, J.

9. I agree.