
(2016) 03 CHH CK 0002
In the Chhattisgarh High Court
Case No : M.A.No. 1384 of 2005

Arti Devi and others

APPELLANT

Vs

Jagatpal alias Jogo and others

RESPONDENT

Date of Decision : 28-03-2016

Acts Referred:

Motor Vehicles Act, 1988 — Section 164
Motor Vehicles Rules, 1994 — Rule 226

Citation : (2016) AAC 1479 : (2016) 4 CGLJ 285

Hon'ble Judges : Manindra Mohan Shrivastava, J.

Bench : Single Bench

Advocate : A.K. Prasad, Advocate, for the Appellant;

Final Decision : Allowed

Judgement

Manindra Mohan Shrivastava, J.—The claimants have filed this appeal aggrieved by the award dated 24-8-2005, by which, the claimants application under Section 166 of the Motor Vehicles Act, has been dismissed.

2. Learned counsel for appellants submits that the claims tribunal did not make due and proper enquiry as envisaged under the provisions of the Motor Vehicles Act read with Rule 226 of the Motor Vehicle Rules, 1994 (In short "the Rules of 1994"). Submission of learned counsel for the appellants is that in the present case, the appellants have brought on record a copy of FIR, Ex.P-1, Inquest, Ex.P-3, Merg Intimation, Ex.P-4 and Post-mortem Report, Ex.P-5. He submits that after registration of criminal case, the police had also Filed charge-sheet before the competent Magistrate. The learned Claims Tribunal ought to have made proper enquiry by directing all the respondents as also to the concerned Police Station to produce before the Court the complete records including case diary to find out the truth and the involvement of the vehicle in the accident but, the power, though available under Rule 226 of the Rules of 1994, was not invoked, resulting in grave injustice to the claimants, as they are deprived of compensation, despite evidence in the form of postmortem report and oral

evidence proving that the husband of the appellant No. 1 died in the road accident. Reliance has been placed on a decision in the case of Smt. Gulabi Bai and another v. Hanuman Prasad Jain and others, MA No.948-2003, decided by this Court on 22-10-2010.

3. In the present case, accident occurred on 16-8-2004. The appellants have placed on record merg intimation, Ex.P-4, which mentions regarding death of Ram Sewak Mahto, stating that when Mahto had gone for morning walk, he was ran over by rashly and negligently driven Tractor. A copy of FIR, Ex.P-1 is also placed on record, in which, offence has been registered against the driver of the Tractor. The post-mortem report also shows that the death was caused due to crashing by a hard and blunt object and the Doctor has also opined that the nature of death was motor vehicle crash. The crime number, under which, criminal case was registered in FIR, Ex.P-1, is clearly mentioned in the FIR. The claim application has been dismissed by the learned Claims Tribunal holding that the claimants have failed to prove involvement of offending vehicle in the accident.

4. In a case of this nature, it was the duty of the Claims Tribunal to collect necessary information by directing police to produce before it copy of challan/case diary/charge-sheet to find out by holding proper enquiry as to involvement of the offending vehicle. For this purpose, it is relevant to take into consideration the provisions contained in Rule 226 of the Rules of 1994, which confers wide power on the Claims Tribunal for the purpose of obtaining information and documents necessary for awarding compensation. Rule 226 of the Rules of 1994 reads thus :- 226. Obtaining of information and documents necessary for awarding compensation under Section 40.- "The Claims Tribunal shall obtain whatever information and documents which may be found necessary from the police, medical and other authorities and proceed to award the claim whether the parties who were given notice, appear or not, on the appointed date".

5. A perusal of the aforesaid provision would show that very wide power has been given to the Claims Tribunal to collect necessary information while deciding application for claim of compensation arising out of death or injury in a motor vehicle accident. The purpose and object of conferring such power to ensure that the Tribunal is able to collect all the relevant information so that appropriate compensation may be awarded to the family of victim/Dependants of victim of road accident. The Tribunal is under duty to ensure just and fair enquiry with an object that just, proper and fair compensation is awarded to the dependents of the deceased, who died in the road accident.

6. The Division Bench of this Court in the case of Smt. Gulabi Bai (supra), also considered the scope and ambit of the provisions contained in Rule 226 of the Rules of 1994 and held :-

7. In view of above mentioned facts and circumstances of the case, the Tribunal should have followed the provisions of Rule 226 and should have summoned the

records from the Police, Medical and other authorities like R.T.O. And then decide the claim petition on the basis of evidence and other relevant material on record in accordance with law but the Tribunal has not followed the provisions of Rule 226. Therefore, we are of the opinion that the matter requires reconsideration at the end of Tribunal."

7. It is thus clear that in the present case, the Tribunal has not made proper enquiry and has not invoked its power as provided under Rule 226 of the Rules of 1994 to call for the relevant records of the criminal case i.e. case diary and charge sheet in order to collect information with regard to fact of the criminal case instituted under Crime No. 181/2004 registered at Police Station Jashpur.

8. For all the above reasons, this appeal is allowed. The impugned award dated 24-8-2005 is quashed. The matter is remanded to the claims Tribunal to hold due and proper enquiry by invoking its jurisdiction under Rule 226 of the Rules of 1994 and pass appropriate orders, after affording opportunity of hearing to both the parties to adduce further evidence, if any, in the matter. The records of the claims Tribunal be sent back forthwith. Considering that this is an old matter, the Claims Tribunal shall decide this matter as early as possible.