
(2007) 02 CHH CK 0038
In the Chhattisgarh High Court
Case No : Misc. Appeal No. 189 of 2001

Divisional Forest Officer, Wildlife Division and Another	APPELLANT
Vs	
Smt. Janki bai and Others	RESPONDENT

Date of Decision : 15-02-2007

Acts Referred:

Motor Vehicles Act, 1988 — Section 166, 173

Citation : (2007) 2 CGLJ 348

Hon'ble Judges : H.L. Dattu, C.J.; Vijay Kumar Shrivastava, J

Bench : Full Bench

Advocate : N.K. Agrawal, Dy. Advocate General, for the Appellant;

Final Decision : Dismissed

Judgement

V.K. Shrivastava, J.—This is an appeal u/s 173 of the Motor Vehicles Act, 1988 (henceforth "the Act, 1988") against the award dated 12-12-2000 passed by the Sixth Additional Motor Accident Claims Tribunal, Raipur (henceforth "the Tribunal") in Claim case No. 86 of 1999, whereby a compensation of Rs. 2,48,000/- has been allowed against the Appellants.

2. Factual matrix of the case, in brief, is that on 17-7-1999 Prabhuram Sahu (since deceased) riding his motorcycle bearing registration No. MP-23-YA-1430 was going towards Raipur, on the way Chhotu @ Vijay Vishwakarma/Respondent No. 7; herein driving Government vehicle bearing registration No. MP-02-4458 (henceforth "the offending vehicle") in a rash and negligent manner dashed the vehicle driven by the deceased. Prabhuram Sahu sustained severe injuries and later on succumbed to those.

3. The offending vehicle is owned by Appellant No. 1 and Appellant No. 2 is the representative of the State. Legal representatives of the deceased, who are Respondents No. 1 to 5 herein, filed an application u/s 166 of the Act, 1988 for grant of compensation against the Appellants and Respondent No. 6, who was the driver of Forest Department as well as Respondent No. 7, who was driving

the offending vehicle and caused the accident.

4. Appellants contested the claim and pleaded that Ramesh Kumar Menon/ Respondent No. 6 herein was employed by Appellant No. 1 as driver of the Government vehicle and further pleaded that Appellants never authorized Respondent No. 6 to hand over the vehicle to any other person, as the accident was caused by Respondent No. 7, who was driving the offending vehicle unauthorized, Appellants are not liable to pay compensation for the fault committed by Respondent No. 7. Respondents No. 6 and 7 also contested the claim.

5. Learned Tribunal recorded the evidence adduced by the parties and after appreciation of evidence held that the offending vehicle was owned by Appellants, Respondent No. 7/Chhotu @ Vijay Vishwakarma, driving the said vehicle in a rash and negligent manner caused accident whereby Prabhuram received injuries and succumbed to those. Learned Tribunal further held that Respondent No. 7/Chhotu @ Vijay Vishwakarma was driving the vehicle with the permission of Respondent No. 6/Ramesh Kumar Menon, therefore, Appellants, owner of the vehicle, are also vicariously liable for payment of compensation to the claimants and accordingly passed an award of Rs. 2,48,000/- against the Appellants and Respondents No. 6 and 7.

6. Appellants have questioned the validity of the award on the ground that Respondent No. 6 was never authorized by them to hand over the vehicle to any other person, therefore, for the act of Respondent No. 7 to whom Respondent No. 6 handed over the vehicle to drive, they are not vicariously liable to pay the compensation.

7. Undisputedly Respondent No. 6 was the employee of Appellant No. 1 and was authorized driver of the offending vehicle. Appellants failed to prove imposing any condition on him that he will not authorize any person to drive the vehicle, therefore, when competent driver of the vehicle has authorized Respondent No. 7 to drive it such authorization shall fall within the ambit of his duty in the course of employment. Law is settled that State is liable vicariously for the torts committed by its servants in the course of employment. Here in the instant case, Respondent No. 7, duly authorized by Respondent No. 6, employee of Appellants, was driving the offending vehicle, when it met with an accident, therefore, for the torts committed by Respondent No. 6, in the course of employment, the Appellants cannot escape from paying their liability, being vicariously liable to satisfy the award. In the result, the appeal being devoid of merit deserves to be dismissed and is accordingly dismissed. No costs.