

(2010) 07 JH CK 0091
In the Jharkhand High Court

Dr. Thakur Surendra Kumar Singh

APPELLANT

Vs

Aftab Alam Ansari and The Oriental Insurance Company Ltd.

RESPONDENT

Date of Decision : 12-07-2010

Acts Referred:

Motor Vehicles Act, 1988 — Section 166
Penal Code, 1860 (IPC) — Section 279, 338

Citation : (2010) 4 LJLR 648

Hon'ble Judges : Jaya Roy, J; Amareshwar Sahay, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. The appellant has filed this appeal for enhance of the amount of award against the judgment/award dated 6.7.2007 passed by the Motor Vehicle Accident Claim Tribunal, Ranchi in Compensation No. 83 of 2007 whereby the Opposite Party/ Respondent No. 1 has been directed to pay a sum of Rs. 22,530/- with interest at the rate of 7% per annum from the date of the admission of the application i.e. 17.7.2004 and further directed to the Oriental Insurance Company who is opposite party/respondent No. 2 to pay sum of Rs. 6000/- with an interest at the rate 7% from the date of the admission of the application and on failure to pay within sixty days from the date of the order they have to pay the interest at the rate of 9% per annum after the expiry of said sixty days till its payment to the applicant/ appellant as compensation for the damage of his Maruti Car.

2. The applicant /appellant filed an application before the Motor Vehicle Claims Tribunal u/s 166 of the M.V. Act, 1988 for the grant of compensation of Rs. 3,51,700/- (Three Lac Fifty one thousand seven hundred) along with interest and the cost of the case on account of damage of his Maruti Car bearing No. BR-26A-0949 caused in a motor vehicle accident occurred on 1.12.2002 near village Hutap River Bridge between Chandra Kuru National Highway No. 75, within P.S. Chandwa, Dist Latehar, in which the said Maruti Car was damaged, while the applicant Dr. Thakur Surendra Kumar Singh was driving the said Maruti

Car and coming from Latehar to Ranchi. When he reached near the village Hutap River Bridge, all of a sudden a Truck bearing registration No. JH-03A-1124 came therein and both the vehicles i.e. Maruti Car bearing No. BR-26A-0949 and Truck bearing No. JH-03A-1124 collided against each other from the opposite direction, as a result of which the applicant Dr. Thakur Surendra Kumar Singh sustained multiple grievous injuries on his person and his Car was completely damaged. In this connection, a Chandwa P.S. Case No. 95/2002, under Sections 279 and 338 of the L.P.C. was registered against the Truck driver namely Braj Nandan Prasad Mehta. It is also alleged Aftab Alam Ansari, the opposite party No. 1 is owner and the Oriental Insurance Co. Ltd.(Opposite party-Respondent No. 2) is insurer of the said truck.

3. Counsel of the appellant Mr. Lall has submitted that the Car of the appellant was completely damaged and he claimed compensation for the damage of his Car a sum of Rs. 3,51,700/- as third party damage. It is contended that the court below has totally erred in holding that the accident took place due to contributory negligence of the appellant also. It is submitted that the court below ought to have held that the driver of the offending truck was negligent in driving the vehicle and due to his fault the said accident took place in which his Car got heavily damaged.

4. We have carefully gone through the pleading of the parties as well as the impugned judgment wherein the Tribunal has discussed in detail the evidence and materials on record.

5. Admittedly, the appellant, who is owner of the Car, was driving his Maruti Car at the relevant time and his Maruti Car was not insured with any of the Insurance Company. The said Maruti Car was of the year 1995. The tribunal after appreciating the evidence and also the materials available on record come to the conclusion that the accident took place due to contributory negligence as committed by the driver of both the vehicles in the accident as such its owner and insurer are liable to share the liability of the damage equally. The Tribunal has after discussing the evidence and materials on record on the point of cost incurred in repair of the Maruti Car, held that maximum amount incurred towards repairing was in between Rs. 50,000/- - 60,000/-. The Tribunal after adding other expenses incurred by the appellant held the claimant to be entitled to Rs. 57,060/- only as compensation and thereby divided the liability 50:50 and in this way fixed Rs. 28,530/- as compensation payable by the Insurance Company to the claimant.

We do not find any error in this finding on facts arrived at by the Tribunal.

6. Considering the facts and circumstances of the case and taking overall view of the matter, we are satisfied that the amount awarded by the tribunal is absolutely reasonable and proper and it needs no interference.

Accordingly, this appeal is dismissed.