
(2012) 05 DEL CK 0642
In the Delhi High Court
Case No : MAC. APP. 680 of 2010

GRS Roadlines Pvt. Ltd.

APPELLANT

Vs

Manisha Kumbhar and Others

RESPONDENT

Date of Decision : 02-05-2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 9 Rule 13

Citation : (2012) 05 DEL CK 0642

Hon'ble Judges : G.P. Mittal, J

Bench : Single Bench

Advocate : Kuldip Singh, with Mr. Harpreet Singh, for the Appellant; Rajesh Saxena, Advocate for the Respondents No. 1 to 5, for the Respondent

Judgement

G. P. Mittal, J.—The Appellant impugns a judgment dated 21.07.2009 and an order dated 16.08.2010 whereby a Claim Petition bearing No.529/2002 and a Misc. Application No.1/2010 respectively were decided by the Claims Tribunal. In Suit No. 529/2002, a Claim Petition filed by the Respondents No.1 to 5 was allowed and a compensation of `14,99,000/- was awarded. Respondents No.6 was impleaded as a driver in the Claim Petition and the Appellant was impleaded as the owner of the offending vehicle bearing registration No.DL-1PB-2427. Obviously, the Appellant (the owner) and the Sixth Respondent (the driver) were ex-parte during the inquiry of the Claim Petition. On filing of the Execution Petition, the Appellant filed an application under Order IX Rule 13 CPC stating that it had no knowledge of filing of the Claim Petition and that the notice of the Claim Petition was served upon one Shri Inderjeet Singh, who at the relevant time was 70 years old, (born on 18.04.1935). The said Inderjeet Singh was a non working Director of the Company. The Notice of the Claim Petition was sent at M-189, Greater Kailash, Part-II, New Delhi, whereas Notice of the Execution Petition was sent at E-577, Greater Kailash, Part-II where Harpreet Singh, Managing Director and the other Directors, who were looking after the affairs of the Appellant's Company, were residing.

2. During hearing of the application under Order IX Rule 13 CPC, the Appellant produced the driving licence of the driver Ravinder Kumar, valid on the date of the accident for driving HTV and a cover note showing that the insurance in respect of the vehicle involved in the accident was obtained for the period 11.06.2002 to 10.06.2003. A Certificate dated 04.08.2010 issued by the Insurer National Insurance Company Limited was also placed on record of the Claims Tribunal to show that the Insurance Policy held by the Appellant was in force on the date of the accident.

3. By order dated 16.08.2010, the Claims Tribunal held that the Appellant had sufficient notice of the Claim Petition and refused to consider the fact that the vehicle was insured on the date of the accident. The Claims Tribunal consequently declined to set aside the judgment dated 21.07.2009.

4. Technically speaking, the service on any of the Directors was sufficient service. But, at the same time, it has to be borne in mind that Inderjeet Singh was a non-working Director and was aged about 70 years on the date of the alleged service. It is claimed that he was a heart patient and a diabetic. The Appellant has placed on record that the registered office of the Appellant's Company was changed to M-189, Greater Kailash, Part-II, New Delhi w.e.f. 02.05.2001.

5. In this view of the matter, particularly, when it is shown that the offending vehicle was duly insured and the driver had a valid driving licence on the date of the accident, primarily it was for the Insurance Company to have satisfied the award, yet no notice could be issued to the Insurance Company as the Insurance particulars were not available at the relevant time.

6. In the circumstances of the case, it would be in the interest of justice to set aside the judgment dated 21.07.2009 and order dated 16.08.2010. At the same time, taking care of the interest of the Claimants, the orders are set aside, subject to the payment of costs of ` 1,00,000/- which the learned Counsel for the Appellant undertakes to pay to the first Respondent on the next date before the Claims Tribunal.

7. The Appeal is allowed in above terms.

8. Since the case is very old, it is directed that the Claim Petition after impleading the National Insurance Company Limited, (the Insurer of the vehicle), shall be decided expeditiously and an endeavor shall be made to dispose of the same within a period of six months from the next date before the Claims Tribunal.

9. Learned Counsel for the Appellant has assured that full co-operation shall be provided in expeditious disposal of the Claim Petition.

10. Parties are directed to appear before the Claims Tribunal on 28.05.2012.

11. The amount deposited by the Appellant shall be refunded to it after the costs, as aforesaid, is paid to the First Respondent before the Claims Tribunal. Copy of the order be given Dasti to the counsel for the parties under the

signature of the Court Master.