
(2004) 01 MP CK 0001
In the Madhya Pradesh High Court

Keshkali

APPELLANT

Vs

Uday Singh and Another

RESPONDENT

Date of Decision : 15-01-2004

Acts Referred:

Citation : (2004) 3 ACC 642

Hon'ble Judges : S.M. Samvatsar, J

Bench : Single Bench

Judgement

S. Samvatsar, J.—This appeal is filed by the claimant challenging the award dated 27th February, 2001 passed by Second Additional Member Judge, Motor Accident Claims Tribunal, Dabra, District Gwalior in Claim Case No. 65/2000 whereby the Claims Tribunal has dismissed the claim petition on the findings that it is not proved that the deceased Lajjaram died due to the injuries sustained in the motor Accident.

2. The brief facts of the case are that on 27th April, 1989 some bones of a dead person were recovered and sent to Dr. V.N. Nagach for performing postmortem. The body was not complete and only some bones were produced hence the doctor could not perform post-mortem. A First Information Report was lodged on 27th April, 1989 alleging that the deceased Lajjaram who died due to crush injuries sustained by tractor No. MIH-7046 and trolley No. HNT-2511.

3. To prove its case the claimant has examined Keshkali (P.W.-1), who is wife of the deceased Lajjaram. In para 1 of her statement she has stated that Lajjaram was returning from her parents' house on the date of Accident in the aforesaid tractor. Lajjaram fell down from the tractor due to the rash and negligent driving by Uday Singh who is also the owner of the tractor. According to her after falling down from the tractor Lajjaram was crushed under the tractor and his body was thrown into the field of Mannu Jatav by respondent, Uday Singh. She, therefore, claimed an amount of Rs. 3,50,000/- towards compensation. This witness is not an eye-witness nor she was accompanying Lajjaram on the date of incident. "According to her she reached the spot when the dead body was found. The dead

body was recovered on 27th April, 1989.

4. The other witness is Kaptansingh (P.W. 2), who is brother of the deceased and says that on the date of incident he has seen the deceased boarding on the tractor. According to him the tractor was driven rashly and negligently by respondent No. 2, Uday Singh due to which deceased fell down from the tractor and was crushed under the wheels of the tractor. This witness has lodged the First Information Report. First Information Report was lodged on 27th April, 1989 in which the date of incident is mentioned as 20th April, 1989. This witness is also not an eye-witness and he has stated in para 4 of his statement that he got down from the tractor about one kilometre before the place of incident and has not seen the incident. According to him nearly 12-15 persons were present in the tractor when Lajjaram boarded the tractor.

5. Both these witnesses Keshkali (P.W. 1) and Kaptansingh (P.W. 12) nowhere claims that they had seen the incident. Moreover, they have not disclosed the fact of the Accident to any one for a period of seven days i.e., from 20th April, 1989 to 27th April, 1989. The third witness is Mansharam who says that he was informed about the Accident by P.W. 2, Kaptansingh. Thus this witness has also no personal knowledge about the incident. Dr. V.N. Nagach is examined by the Insurance Company as NAW-2. This witness stated that there was nothing to perform postmortem as the body was not complete and only some bones were produced before him. He denied the fact that the bones show any crush injury. Uday Singh, NAW-1, who was alleged to be driving the vehicle has denied the fact of Accident. He has also denied that Lajjaram boarded the tractor on the date of incident. There is no eye-witness of Accident. As per the statement of P.W. 2, Kaptansingh as 12-15 persons were in the tractor but none of these witnesses were examined by the claimant.

6. Thus claimant has not produced any evidence to show that Lajjaram died in a motor Accident. In such circumstances the Claims Tribunal has rightly dismissed the claim petition as there was no iota of evidence to show that Lajjaram died in the motor Accident.

7. In the result, this appeal fails and is Accordingly dismissed with no orders as to costs.