
(1993) 09 DEL CK 0032

In the Delhi High Court

Case No : F.A.O. No. 230 of 1981 and Cross Objection No. 1256 of 1983

Kishore Lal Shankar

APPELLANT

Vs

S. Qureshi and Others

RESPONDENT

Date of Decision : 14-09-1993

Acts Referred:

Motor Vehicles Act, 1939 — Section 110CC, 95(2)

Citation : (1993) ACJ 1231 : (1993) 105 PLR 79

Hon'ble Judges : P.K. Bahri, J

Bench : Single Bench

Advocate : B.B. Sawhney, for the Appellant; O.P. Maini, K.K. Jain and R. Anand Padmanabha, for the Respondent

Judgement

P.K. Bahri, J.—By this order, I shall dispose of the appeal as well as the cross-objections pertaining to the order of the Motor Accidents Claims Tribunal dated July 24, 1981 by which the Tribunal had awarded compensation of Rs. 16,246/- with costs against all the respondents before the Tribunal but has limited the liability of the Insurance Company, respondent No. 3, to the tune of Rs. 8,700/- with the direction that if the amount is not paid within 60 days, the amount shall carry the interest of 6% per annum from the date of the award till realisation.

2. The learned Counsel for the appellant has contended that the Tribunal had went wrong legally in limiting the liability of the Insurance Company to the tune of Rs. 8,700/- only. He has urged that according to the terms of the Insurance Policy, the liability of the Insurance Company was limited to Rs. 50,000/- and thus, the whole of the amount awarded by the Tribunal should have been made recoverable from the Insurance Company.

3. The findings of fact given by the Tribunal are not challenged before me that the claimant suffered the injuries on account of the accident caused by the appellant's vehicle No. DHP 165 when it was being driven by his driver in a gross, negligent and rash manner. The Tribunal had awarded Rs. 1,500/- as conveyance, medical treatment and special diet expenses, Rs. 3,000/- for the

pain and suffering, Rs. 2,500/- for the financial loss suffered by the claimant and Rs. 9,546/- as the expenses incurred on the repair of the Jonga Jeep which was being driven by the claimant.

4. In order to appreciate the contention of the learned Counsel for the appellant, it is necessary to refer to the terms of the policy which is Ex. RW 1/1. On the front page itself, it is recorded that the limit of the amount of the company's liability u/s II-I(i) in respect of any one accident is such amount, as is necessary to meet the requirement of Motor Vehicles Act as amended up to date. What we are concerned is the limit of the amount of the company's liability u/s II-I(ii) in respect of one claim or series of claims arising out of one event, which is Rs. 50,000/-.

5. Section II has the heading of liability to third parties and Section II-I(ii) makes the liability of the company pertaining to damage to property caused by the use (including the loading or unloading) of motor vehicle. The very reading of the this provision shows that if damage is caused to the property of a third person by the use of the insured motor vehicle under this policy, the company would be liable but as far as liability under the statute is concerned, it is restricted to Rs. 2,000/- u/s 95(2)(d).

6. However, it is not disputed that by contract, the Insurance Company could have more liability than stipulated in the statute. If we read the terms of the policy, as enumerated above, it makes it abundantly clear that in respect of the claim which falls u/s II-I(ii), the liability of the Insurance Company is limited to Rs. 50,000/-. So, the Tribunal was not right in limiting the liability of the Insurance Company to only Rs. 2,000/- in respect of the amount awarded by him as repairs to the damaged Jonga Jeep of the claimant.

7. So, I hold that whole of the amount is recoverable from the Insurance Company. The Insurance Company had already paid Rs. 8,700/-. The balance amount is yet to be paid. I direct that the balance amount to the tune of Rs. 7,546/- be paid/deposited by the Insurance Company with interest at the rate of 6% per annum from the date of the claim petition till payment to the claimant within one month. If the amount is not paid/deposited within one month, the amount will carry the interest at the rate of 12% per annum from the date of the claim petition till payment. No other point has been urged before me.

8. The appeal and the cross objections are disposed of.