

(2000) 12 RAJ CK 0005

In the Rajasthan High Court

Case No : Civil Writ Petition No. 1729 of 2000

Madan Lal and another

APPELLANT

Vs

Santosh Devi and Others

RESPONDENT

Date of Decision : 01-12-2000

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Motor Vehicles Act, 1988 — Section 140, 160, 163

Citation : (2001) 1 ACC 591 : (2001) 1 RLW 548 : (2001) 2 RLW 818 : (2001) 1 WLC 260 : (2001) 1 WLN 66

Hon'ble Judges : A.R. Lakshmanan, C.J

Bench : Single Bench

Advocate : Inder Raj Saini, for the Appellant;

Judgement

Lakshmanan, CJ.

1. The petitioners are the owner and Driver of the vehicle which involved in the accident. The respondents No. 1 to 8 filed claim petition u/S. 166 of the Motor Vehicles Act alongwith an application u/S. 140 of the Motor Vehicles Act alleging that on 26.7.99, the accident took place and that the deceased sustained injuries and also died due to rash and negligent driving of the driver of the vehicle. The Insurance Company appeared before the Tribunal and submitted that there is violation of the policy, as such, there is no liability of the Insurance Company and they cannot be held liable. The Tribunal vide order dated 5.1.2000 awarded Rs. 50,000/- as common fault liability recoverable from the petitioners. The said order was challenged in this writ petition.

(2). It is argued by the learned counsel for the petitioners that the learned Tribunal has committed error in passing the impugned Award against the petitioners at the preliminary stage and that there is no violation of the policy; but, even if there is any violation, that has to be decided only at the final hearing of the Claim Petition. The writ petition has been filed to set aside the order dated, 5.1.2000 (Annex. 1) and for other consequential reliefs.

(3). Sec. 140 of the Motor Vehicles Act, 1988 deals with the liability to pay compensation in certain cases on the principle of no fault. In the instant case there is no dispute in regard to the occurrence on the date in question and involvement of the vehicle owned by the petitioners. The Courts have held that the liability to pay compensation in respect of death due to the motor accident is based on the principle of fault at common law. But liability to pay compensation on the principle of no fault has come to be provided statutorily by Sec. 92 of the Act of 1939 substituted as Sec. 140 of the new Act, 1988. The Tribunal is expected only to hold summary enquiry, which is to be held only at the final stage of evidence in the claim case.

(4). In the instant case, there was material before the Tribunal to show that the deceased died due to the accident and of the involvement of the truck owned by the petitioners and there is sufficient material to fasten the liability on the owner and the driver of the vehicle to pay compensation u/S. 140 of the new Act. Hence, the order of the Tribunal, in my opinion, does not suffer from any infirmity for any interference by this Court. However, I make it clear that the amount of compensation to be given under any other law shall be reduced in the amount of compensation payable under this Sec. or u/S 163-A of the Act.

(5). Consequently, the writ petition fails and it is hereby dismissed. The petitioners are directed to deposit the amount within four weeks.