
(2014) 01 JH CK 0061
In the Jharkhand High Court
Case No : M.A. No. 24 of 2009

Meena Devi

APPELLANT

Vs

Sakuntala Devi

RESPONDENT

Date of Decision : 06-01-2014

Acts Referred:

Motor Vehicles Act, 1988 — Section 140

Citation : (2015) 4 ACC 230 : (2015) ACJ 2088 : (2014) 2 AJR 654 : (2014) 1 JLJR 337

Hon'ble Judges : Dhruv Narayan Upadhyay, J

Bench : Single Bench

Advocate : Vijay Kr. Sharma, Advocate for the Appellant; Prashant Vidyarthi, Advocate for the Respondent

Judgement

Dhruv Narayan Upadhyay, J.—This appeal has been preferred by Meena Devi and Uday Bhuiyan parents of the deceased Sanjay Kumar against the judgment dated 28.8.2008 passed by the Additional District Judge, F.T.C.-II-cum-M.A.C.T., Chatra in connection with Claim Case No. 15/2005 whereby the learned Tribunal has refused to allow the petition filed u/s 140 of the M.V. Act. The brief fact behind the Claim Application is that the appellants with their son Sanjay Kumar got down from the Commander Jeep near Gorwali School in order to go to Tulsipur. In course of crossing Chatra Dobhi Road, a Truck bearing registration No. BR-1G-2735 dashed Sanjay Kumar, as a result, he sustained injuries and in course of removing hospital died. The accident took place on 14.7.2004. The learned Tribunal has rejected the application on the ground that the appellants have failed to prove the occurrence and appellant No. 2-Uday Bhuiyan, who happens to be the father of the deceased, is class-II heir and therefore, he is not entitled for any claim.

2. Learned Counsel appearing for the appellant has submitted that after the accident took place, occurrence was reported to the concerned Police Station and a case being Hunterganj P.S. Case No. 67/04 dated 14.7.2004 was registered

against the driver of vehicle No. BR-1G-2735. Postmortem was also done on the dead body of Sanjay Kumar and after concluding investigation, charge-sheet was submitted against the driver of the offending vehicle. All those documents alongwith the application were filed before the Tribunal but the teamed Tribunal has elaborately discussed, the evidence and document and the contention made in the Claim Application and passed a detailed judgment on a petition filed u/s 140 of the M.V. Act. As a matter of fact, the Tribunal has gone beyond the purview and considerations required to be considered in a petition filed u/s 140 of the M.V. Act and therefore, the impugned judgment is highly erroneous and liable to be set aside. It is further pointed out that the insurance policy of the offending vehicle is not denied by the respondent-Insurance Company.

3. Learned Counsel appearing for the respondent No. 1, who happens to be the owner of the vehicle did not appear whereas respondent No. 2-Oriental Insurance Company Ltd. has put appearance. Though the learned Counsel opposed the argument but did not dispute the policy under which the offending vehicle was insured.

4. It is needless to say, while considering application u/s 140 of the M.V. Act the Tribunal should not go into such detail as it is shown in the present case. The spirit of Section 140 of the M.V. Act is to pay interim compensation to the victims of road accident in case of "no fault liability". Here in the instant case the appellants have furnished all necessary documents relating to death of Sanjay Kumar which occurred in a road accident due to rash and negligent driving of the driver of the Truck bearing registration No. BR-1G-2735. Since the Insurance policy is not denied, respondent No. 2 the Oriental Insurance Company is directed to pay a sum of Rs. 50,000/- as interim compensation u/s 140 of the M.V. Act with interest @ 6% p.a. from the date of filing of the application till the date of payment. The impugned judgment dated 28.8.2008 passed by the Tribunal in connection with Claim Case No. 15/2005 is hereby set aside and the appeal stands allowed. Interim compensation with interest as directed must be paid to Meena Devi, mother of the deceased within three weeks from today.