
(2020) 01 UK CK 0017

In the Uttarakhand High Court

Case No : Appeal From Order No. 102 Of 2013

M/s Jindal Refineries Limited

APPELLANT

Vs

Manju & Others

RESPONDENT

Date of Decision : 06-01-2020

Acts Referred:

Code Of Civil Procedure, 1908 — Section 151, Order 41 Rule 27

Citation : (2020) 01 UK CK 0017

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Advocate : Sarvesh Aggarwal, Lalit Sharma, Siddhant Manral, H.C. Pande, Siddhartha Bisht

Final Decision : Dismissed

Judgement

Sudhanshu Dhulia, J

1. This is an appeal filed by the appellant against the award dated 13.09.2012 passed by the Motor Accident Claims Tribunal, Udham Singh Nagar in

MACP No. 270 of 2009, whereby a compensation of Rs.11,11,740/- (Rupees Eleven Lakh Eleven Thousand Seven Hundred Forty only) has been

awarded to the claimants and the appellant has been directed to pay the said amount.

2. There is no dispute to the fact that the motor accident occurred on 18.06.2009 at Bilaspur, Uttar Pradesh in which one Rajkumar, who was husband

of claimant no. 1 and father of claimant nos. 2, 3 & 4 died. Subsequently a claim petition was filed by the claimants for a compensation of

Rs.20,50,000/- (Rupees Twenty Lakh Fifty Thousand only). The learned Tribunal has awarded a compensation of Rs.11,11,740/- (Rupees Eleven

Lakh Eleven Thousand Seven Hundred Forty only) along with six per cent interest

per annum from the date of filing of the claim petition. The liability, however, has not been fixed on the insurance company, but on the appellant who is the owner of the vehicle on ground that on the ill-fated day i.e. on 18.06.2009 when the accident occurred in the territorial jurisdiction of the State of Uttar Pradesh, the transport vehicle had no permit to ply on that territory as it only had the permit to ply the same in the State of Uttarakhand. Admittedly, the incident happened in the border District of Rampur, for which there was no permit.

3. The case of the appellant, however, was that it had the permit but it could not submit it before the Tribunal at the relevant point of time. Therefore, though the appellant is not against the claim of the claimants or quantum of compensation fixed by the Tribunal, but it denies its liability to pay the amount, as according to the appellant, the liability should be on the insurance company and not on the owner/appellant.

4. The only question before this Court is whether the appellant who was the owner of the vehicle had the requisite permit to ply the transport vehicle in the territory of Uttar Pradesh at Bilaspur, where the accident took place?

5. The case of the appellant is that it actually had the permit which was applicable from 18.12.2008 to 22.01.2013 for the State of Uttar Pradesh, however, it could not be submitted before the learned Tribunal at the relevant point of time due to the inadvertent mistake on the part of their lawyer, and for which they cannot be punished.

6. All the same, the written statement filed by the owner and the driver of the vehicle, which is the part of the lower court record has been perused by this Court.

7. In reply to the claim petition, although a specific denial has been made on various counts, but there is not even a whisper in the written statement that the offending vehicle had a permit from the authorities at Uttar Pradesh to ply the vehicle in the territory of Uttar Pradesh. Neither the driver nor the owner of the vehicle has made any categorical statement in this regard. Now in the appeal, a copy of the permit has been filed along with a miscellaneous application, which is also not the original permit, and it is being argued by the learned counsel for the appellant that the same be made a part of the record under Order 41 Rule 27 of the Code of Civil Procedure.

8. However, this submission of the appellant cannot be accepted first of all for the simple reason that Order 41 Rule 27 of the Code of Civil Procedure

applies to appeals which arise from the original decree, which the present case is not. Although this Court can still appreciate a fresh evidence under

its inherent powers under Section 151 of the Code of Civil Procedure, but the present case does not appear to be a case for exercise of these powers.

9. Consequently, the appeal fails and it is hereby dismissed.

10. Let the entire amount along with the interest as directed by the Tribunal be deposited by the appellant with the concerned Tribunal after adjusting

the amount already deposited. After the entire amount is deposited by the appellant, let the same be released in favour of the claimants within a period

of three weeks from the date of production of a certified copy of this order. The statutory amount of Rs.25,000/- (Rupees Twenty Five Thousand

only) be also remitted to the concerned Tribunal.

11. Let a copy of this judgment along with the lower court record be sent to the concerned Tribunal for onward compliance.