
(2023) 04 J&K CK 0020

In the Jammu And Kashmir High Court

Case No : Miscellaneous Appeal No. 724 Of 2010, IA No.1110 Of 2010

National Insurance Company

APPELLANT

Vs

Nazir Ahmed And Others

RESPONDENT

Date of Decision : 13-04-2023

Acts Referred:

Citation : (2023) 04 J&K CK 0020

Hon'ble Judges : Puneet Gupta, J

Bench : Single Bench

Advocate : C. S. Gupta

Final Decision : Dismissed

Judgement

Puneet Gupta, J

1. The learned counsel appearing for the appellant has raised the argument in the appeal that the liability to pay the compensation amount as held by the learned Motor Accident Claims Tribunal, Kishtwar is upon the owner of the vehicle and not the appellant herein as the claimant who has suffered injury during the course of accident was gratuitous passenger. The Tribunal could have at the most directed the appellant herein the insurance company to pay the amount of compensation to the claimant and entitle the appellant to recover the same from the owner of the vehicle if not directing in the first instance the owner of vehicle to compensate the victim. It is submitted that the vehicle involved in the accident was truck, therefore, the liability has to be upon the owner and not the Insurance Company as the claimant cannot be said to be covered by insurance policy.
2. The accident occurred on 06.03.2002 due to the rash and negligent driving of the driver of the truck and in which the claimant got injured is not in dispute.
3. The victim has been awarded Rs.85,000/- as compensation along with interest @9% from the date of application till the realization of the whole amount.

4. The learned Tribunal has negated the contention of the Insurance Company that the Insurance Company is not liable to pay the compensation on the ground that no evidence has been produced by the Insurance Company in support of its objection that the owner violated the terms and conditions of the Insurance Policy.

5. The Insurance Company has not produced the evidence before the Tribunal in support of its plea and, therefore, the Tribunal fastened the liability upon the appellant. This court in appeal does not find any reason to interfere in the finding of the Tribunal which prompted the Tribunal to decline the plea of the appellant. The plea taken without substantiating further by evidence comes in the way of appellant in the present case. The award is upheld.

6. The appeal is without any substance and is, accordingly, dismissed.