(2016) 06 SHI CK 0063

In the High Court Of Himachal Pradesh

Case No : FAO No. 457 of 2007

National Insurance Company Ltd. APPELLANT

Vs

Rama @ Babita RESPONDENT

Date of Decision : 03-06-2016

Acts Referred:

Motor Vehicles Act, 1988 — Section 166, 168, 173

Citation : (2016) ILRHP 1773

Hon'ble Judges : Mr. Mansoor Ahmad Mir, CJ.

Bench : Single Bench

Advocate : Mr. Ashwani K. Sharma, Senior Advocate, with Mr. Nishant Kumar, Advocate, for the Appellant; Mr. Lakshay Thakur, Advocate, for the Respondent Nos. 1 to 3; Nemo, for the Respondent Nos. 4 & 5

Final Decision : Dismissed

Judgement

Mr. Mansoor Ahmad Mir, C.J.(Oral)—This appeal is on the Board of this Court for the last about 9 years, is a terrible commentary on the judicial process.

2. The claimants invoked the jurisdiction of Motor Accident Claims Tribunal (II), Mandi, H.P., Camp at Karsog, (for short, "the Tribunal") by the medium of Claim Petition No. 104 of 2003, titled Smt. Rama alias Babita & others v. Sh. Ramesh Kumar & others on the ground that they became victims of vehicular accident, which was caused by the driver, namely, Rakesh Kumar, while driving Mahindra Max, bearing registration No. HR-62-0606, on 10.8.2003, at about 5.30 A.M., near Datyar on Chandigarh-Shimla road, in which Parma Nand sustained injuries and succumbed to the injuries, for grant of compensation on the grounds taken in the memo of claim petition.

3. The respondents, in the claim petition, resisted the same on the grounds in the respective memo of objections.

4. Following issues came to be framed:

"1. Whether Shri Parma Nand died due to rash and negligent driving of vehicle No. HR-62-0606 on 10-8-2003 at about 5.30 A.M. at place near Datyar on National Highway-22 Chandigarh Shimla, being driven by respondent No. 2 (Rakesh Kumar) as alleged? OPP.

2. If issue No. 1 is proved in affirmative to what amount of compensation, the petitioners are entitled to and from whom? OPP.

3. Whether respondent No. 2 was not having a valid and effective driving licence at the time of accident? OPR-3.

4. Whether the offending vehicle was being driven in contravention of the terms and conditions of the Insurance Policy? OPR-3.

5. Relief."

5. Parties have led evidence.

6. The Tribunal, after scanning the evidence, oral as well as documentary, vide judgment and award dated 8th November, 2006, awarded compensation to the tune of Rs. 5,86,000/- along with interest at the rate of 7?% per annum and saddled the insurer with liability (for short, the "impugned award").

7. The insurer has not led any evidence, thus, has failed to discharge the onus to prove issues No. 3 and 4, which came to be decided against the insurer, in terms of paras 25 and 26 of the impugned award.

8. I have gone through the findings recorded by the Tribunal, are well reasoned, need no interference.

9. Having said so, the impugned award merits to be upheld and the appeal is to be dismissed. Accordingly, the impugned award is upheld and the appeal is dismissed.

10. The Registry is directed to release the awarded amount in favour of the claimants, strictly as per the terms and conditions contained in the impugned award through payees'' account cheque or by depositing the same in their respective bank accounts.

11. Send down the record after placing copy of the judgment on the Tribunal''s file.

