
(2016) 11 RAJ CK 0050

In the Rajasthan High Court

Case No : Civil Misc. Appeal No. 3920 of 2007

National Insurance Company Ltd.

APPELLANT

Vs

Subesingh

RESPONDENT

Date of Decision : 29-11-2016

Acts Referred:

Motor Vehicles Act, 1988 — Section 149, Section 166

Citation : (2017) 1 WLN 366

Hon'ble Judges : Mr. Mahesh Chandra Sharma, J.

Bench : Single Bench

Advocate : Mr. Vijayant Nirwan, Advocate, for the Claimants; Mrs. Archana Mantri, Advocate, for the Insurance Company

Final Decision : Allowed

Judgement

Mr. Mahesh Chandra Sharma, J. - Heard learned counsel for the parties and after hearing both the parties, the appeal/s is/are being disposed of at this stage.

2. Brief facts of the case are that the appeal/s has/have been filed against the impugned judgment and award passed by the MACT.

3. At the very outset, learned counsel for the insurance company submits that the learned Tribunal while passing the impugned award has not taken into consideration the objections which he has raised by way of aforesaid appeal/s. The finding of learned Tribunal on issue no.3 is contrary to the material available on record. Thus, the impugned award passed by the learned Tribunal qua issue no. 3 be quashed and set aside and the matter be remanded to the learned Tribunal with the direction to decide the matter afresh in the light of objections which he has raised by way of aforesaid appeal.

4. On the other hand, the learned counsel for the claimant/s though opposed the same but requested that the learned Tribunal may be directed to hear him/them at the time of deciding the matter afresh on the aforesaid issue/s, and he may be permitted to raise all the objections, grounds as have been raised in this appeal.

5. I have heard learned counsel for the parties and carefully perused the relevant material on record including the impugned award.

6. In my considered view, the learned Tribunal while passing the impugned award has not gone through the facts of the case and passed the impugned award surreptitiously. Thus, the impugned award passed by the learned Tribunal needs interference by this court.

7. In the result, the appeal/s is/are partly allowed and the impugned judgment and award passed by learned Tribunal qua on aforesaid issue/s is quashed and set aside with the direction to the learned Tribunal to decide the matter afresh as early as possible, qua the aforesaid issue/s in the light of grounds raised by the learned counsel for the parties in the aforesaid appeal/s and the aforesaid judgment, if applicable and other judgments to be cited by learned counsel for the parties, if any, after issuing notice to all the concerned parties and giving opportunity of hearing to them.

8. Both the parties request for specific date for appearing before the trial court, hence they are directed to appear before the learned Tribunal on 5/3/2017.

9. Record, if any, be sent back.

10. The amount which has been received by the claimants/s shall not be recovered by the insurance company till final decision of the claim petition afresh.