
(2010) 04 AHC CK 0132

In the Allahabad High Court

Case No : First Appeal From Order No. 4 17 of 2009

National Insurance Corpn.Ltd.

APPELLANT

Vs

Ram Chandra

RESPONDENT

Date of Decision : 01-04-2010

Acts Referred:

Motor Vehicles Act, 1988 — Section 149

Citation : (2010) 04 AHC CK 0132

Hon'ble Judges : Devi Prasad Singh, J and S.C.Chaurasia, J

Final Decision : Dismissed

Judgement

S.C. Chaurasia,J.

Heard learned counsel for the appellant and learned counsel appearing for the respondents and perused the record.

Present appeal under Section 173 of the Motor Vehicles Act has been preferred against the award dated 22.12.2008 passed by Motor Accident Claims Tribunal, Lakhimpur Kheri in MACP No.201 of 2005.

In brief, one Bhai Lal on 30.6.2005 was sitting adjoining the road near the shop of one Sanjay. The driver of Jeep No.U.P.34C/8013 driving the vehicle rashly and negligently exceeded his limit and hit Bhai Lal who succumbed to the injuries. First Information Report was lodged and the representatives/dependents approached the tribunal for payment of compensation.

The tribunal framed Issue No.1 as to whether the accident caused at 8.30p.m. on 30.6.2005 by Jeep No.UP34C/8013. Issue No.4 relates to driving licence and the issue No.5 relates to insurance policy. With regard to issue No.1, the tribunal on the basis of the evidence led arrived to the conclusion that the accident was occurred because of rash and negligent driving of the driver of the jeep. P.W.1 is not an eyewitness. However, P.W. 2 Lekhram who is an eyewitness stated that at the time of occurrence he was present at the scene and he also suffered injuries when the jeep hit the deceased and others at the spot. Since the P.W. 2 is

eyewitness, the statement given by him carries weight and it has rightly been relied upon by the tribunal while holding that the accident occurred because of rashness and negligence on the part of the driver of the vehicle.

It has been stated by the appellant's counsel that while deciding issue No.4, a finding has been recorded that the jeep was being driven by driver Idrish and against whom a First Information Report was lodged at the police station. It has been vehemently argued by the learned counsel for the appellant that the jeep was driven by a minor boy and not by Idrish. However, the submission seems to be incorrect keeping in view the fact that it was Idrish against whom a First Information Report was lodged after the occurrence. Idrish was having driving licence which was operating on the date of occurrence. The appellant had not led any evidence to substantiate his allegation that the jeep was being driven by some minor person other than Idrish. In case some other person was driving the jeep, then it was incumbent on the appellant to adduce evidence and substantiate his allegation but the same has not been done.

On the basis of insurance policy/cover note on record, the tribunal recorded a finding that the vehicle was insured by the appellant.

However, So far as the earning of the deceased is concerned, the tribunal has ascertained the income at the rate of Rs.15,000/ per year which does not seem to be excessive; rather in view of recent judgment of Hon"ble Supreme Court, even notional income should be more than the amount which has been assessed by the tribunal.

In view of above, the compensation awarded by the tribunal to the tune of Rs.1,34,500/ does not seem to suffer from any infirmity or illegality. The appeal fails and is accordingly dismissed. The amount deposited in this Court shall be remitted to the tribunal forthwith, say within a period of one month by the Registry. The appellant shall deposit the entire amount of compensation, if not deposited so far to the tribunal within a period of two months from today and the tribunal shall proceed in terms of the award.