
(2012) 04 DEL CK 0219
In the Delhi High Court
Case No : MAC. APP. 1065 of 2011

New India Assurance Co. Ltd.

APPELLANT

Vs

Kusum Lalta and Others

RESPONDENT

Date of Decision : 17-04-2012

Acts Referred:

Citation : (2012) 04 DEL CK 0219

Hon'ble Judges : G.P. Mittal, J

Bench : Single Bench

Advocate : K.L. Nandwani, for the Appellant;

Final Decision : Dismissed

Judgement

G.P. Mittal, J.—The Appellant New India Assurance Company Limited impugns the judgment dated 20.07.2011 whereby a compensation of Rs. 8,70,000/- was awarded for the death of Saurav Sateria @ Vikki, who died in an accident which occurred on 21.10.2007. The sole ground of challenge to the judgment is that it was a head on collision and, therefore, there was contributory negligence on the part of both the vehicles involved in the accident.

2. In order to prove the negligence on the part of Respondent No. 3 Mohd. Issar(the driver-cum-owner of the offending vehicle) the Respondents No. 1 and 2 (the Claimants) examined PW-2 Amit Jain, PW-3 Sunny Srivastava and PW-4 Anil Kumar Gupta who were travelling in the Maruti Car. PW-3 Sunny Srivastava in his Affidavit Ex.PW-3/A testified that on 21.10.2007 at about 2:30 A.M., he along with his friend Saurav Sateria @ Vikki (the deceased), Anil Kumar Gupta and Amit Kumar Jain were coming to Delhi from Roorkee in a Maruti Car. When they reached Hapur Road in front of the Gas Agency Kharkhoda, a truck bearing No. UP-12T-0163 came from the opposite direction. It was being driven in a rash and negligent manner; it came on the wrong side and hit the Maruti Car.

3. In cross-examination, the witness denied the suggestion that the Maruti Car was being driven at a high speed. He also denied that the accident was caused

on account of the rash driving of the Maruti Car.

4. PW-4 Anil Kumar also corroborated the testimony of PW-3.

5. The driver-cum-owner of the truck No. UP-12T-0163 who himself was the Respondent in the Claim Petition was not produced in the witness box to rebut the testimony of PW-3 and PW-4, the eye witnesses produced by the Respondents No. 1 and 2.

6. Thus, it is established on record that the truck No. UP-12T-0163 was being driven in a rash and negligent manner as the truck driver travelled on the wrong side and collided with the Maruti Car coming from the opposite direction.

7. It cannot be laid down as a proposition of law that in every case of head on collision, there would be contributory negligence on the driver of both the vehicles.

8. The negligence on the part of Respondent No. 3 is writ large. The Appeal is devoid of any merit; the same is accordingly dismissed.