(2011) 07 DEL CK 0435

In the Delhi High Court

Case No : MAC Appeal No. 501 of 2009

New India Assurance Co. Ltd. APPELLANT

Vs

Smt. Raniya @ Rami Devi and Others RESPONDENT

Date of Decision : 13-07-2011

Acts Referred:

Motor Vehicles Act, 1988 — Section 163A

Citation : (2011) 07 DEL CK 0435

Hon'ble Judges : Indermeet Kaur, J

Bench : Single Bench

Advocate : L.K. Tyagi, for the Appellant; Jatinder Kumar, and Anil Aggarwal, for the Respondent

Final Decision : Dismissed

Judgement

Indermeet Kaur, J.—The Insurance Company has appealed against the award dated 09.07.2009. This award had been passed on an application u/s 163(A) of the Motor Vehicle Act (MV Act). The deceased Ramamej had died in an accident which took place on 18.08.2007; he was driving a motorcycle which had collided with another motorcycle; due to this forceful collision of the two motorcycles, the deceased Ramamej succumbed to his injuries. He was 54 years of age and was earning approximately Rs. 3,300/- per month; being an annual income of less than Rs. 40,000/- the present petition u/s 163A had been preferred. Three issues had been framed before the learned Tribunal. Evidence had been led. The medical record and treatment bills of the deceased had been proved in the testimony of PW-3; PW-1 was the widow of the deceased. On behalf of the Insurance Company one witness namely R4W1 had come into the witness box; the insurance policy had been proved as Ex.R4W1/1.

2. Contention of the Insurance Company was that the company has no liability to pay compensation as the present petition is a petition u/s 163(A) of the MV Act which postulates a ''no fault liability''; the deceased being the driver of the offending vehicle, he could not be granted any compensation under this provision

of law. Today also before this Court, the same argument has been urged. It is pointed out that in the judgment of the Apex Court reported in Ningamma and Another Vs. United India Insurance Co. Ltd., it has been held that the liability u/s 163A of the MV Act is on the owner of the vehicle; a person cannot be both i.e. the claimant as also a recipient with respect to the claim. In that case, the deceased was admittedly not the owner of the motor bike in question; he had borrowed it from the real owner. The deceased in the instant case was admittedly not the borrower of the said vehicle; he was an employee of the owner of the motorcycle which he was driving; he was a peon employed with M/s BMG Enterprises who was the insured. The Tribunal had relied upon a judgment of this Court reported in New India Assurance Co. Ltd. Vs. Rejeshwar Pandey and Others, where the vehicle being driven by the driver had suffered a accident and the deceased having succumbed to his injuries; the present appeal had been preferred u/s 163(A) of the MV Act, it was held that the legal heirs of the deceased were entitled to compensation. The insurance policy in the instant case (Ex. R4W1/1) also reveals that the policy covers the risk of any person including the insured provided that the person driving a vehicle holds an effective driving license at the time of accident; it is not the case of the Appellant that the driver/deceased did not have the valid license at the time of the accident. In this factual scenario when admittedly the deceased was an employee of the owner, the judgment of the N Ingamma (Supra) which was in a different factual context is inapplicable.

3. The first argument thus propounded by learned Counsel for the Appellant that the legal heirs of driver of the vehicle cannot claim compensation is thus an argument to be noted only to be rejected.

4 The second argument propounded by learned Counsel for the Appellant is that there should have been apportionment of liability between the Insurance Company and the owner of the other offending vehicle. Admittedly no such argument had been advanced before the Tribunal; no evidence had also been led on this score. In these circumstances, this argument also merits no weight.

5. The provisions of Section 163A of the MV Act had been incorporated into the statue by the amendment Act 54 of 1994; this was a special provision for payment of compensation on a structured formula basis; this provision had been introduced by the Legislature with an aim to provide an early and expeditious relief to the legal heirs of the victim where only the involvement of the vehicle was to be shown; this provision had been incorporated as a summary provision where no evidence about the negligence has to be necessarily led or proved. Even otherwise this legislation i.e. MV Act is a socially benevolent and this should be kept in mind while dealing with the relief to be granted to the victims involved in such a fatal or a non-fatal accident. This cannot be lost sight of.

6 The impugned award in no manner calls for any interference.

7 Dismissed.

