
(2013) 10 DEL CK 0143
In the Delhi High Court
Case No : MAC. App. 248 of 2012

New India Assurance Co. Ltd.

APPELLANT

Vs

Smt. Santosh Raj and Others

RESPONDENT

Date of Decision : 03-10-2013

Acts Referred:

Citation : (2013) 9 AD 165

Hon'ble Judges : Suresh Kait, J

Bench : Single Bench

Advocate : Soumik Mazumdar, for the Appellant; Pooja Goel, for R1 to R4, for the Respondent

Final Decision : Dismissed

Judgement

Suresh Kait, J.—Instant appeal has been preferred against the impugned award dated 07.01.2012, whereby, Id. Tribunal has granted compensation of Rs. 5,74,900/- with interest @ 7.5% per annum from the date of filing of the petition till realization. Id. Counsel appearing on behalf of the appellant has argued the instant appeal only on the ground that there was no negligence on the part of the offending vehicle despite that Id. Tribunal has granted compensation as noted above; and fastened the liability on the appellant.

2. On perusal of record, it is established that PW1 Santosh Raj, mother of the deceased has proved the death certificate Ex. PW1/4. PW3, Constable Karamvir deposed that in the intervening night of 7/8.10.2009, he was on duty. A motorcycle and a truck were coming from Anand Vihar side. Some work was going on the road for construction of the Pulia and the building material was lying on the road. The truck driver tried to overtake the motorcycle and hit the motorcycle by the left side of the truck. He signalled the truck driver to stop. Thereafter, the motorcycle was removed. A PCR van came at the spot and took the injured to the hospital. Driver of the offending truck was arrested.

3. Moreover, FIR, Post-Mortem Report, site plan and testimony of the PW3

together fully established that the death of the deceased was caused due to the injuries sustained in the road accident. There is nothing on record to dispel the inference that deceased Sanjay Raj had died on account of injuries sustained in the road accident which occurred on 07/08.10.2009 involving the vehicle Registration no. HR-55-3324 being driven by its driver in a rash and negligent manner.

4. To rebut the negligence on the part of the offending vehicle, no evidence has been led by the appellant/insurance company.

5. Keeping in view the evidence on record, Id. Tribunal has rightly come to a specific finding that the driver of the offending vehicle was negligent, who caused the accident due to which Sanjay Raj died.

6. Therefore, I do not find any discrepancy in the award passed by the Id. Tribunal.

7. Accordingly, instant appeal is dismissed.

8. Vide order dated 15.10.2012, 50% of the award amount was directed to be released in favour of the respondents/claimants. Therefore, balance compensation amount be released in favour of the respondents/claimants in terms of award dated 07.01.2012. Statutory amount be also released in favour of the appellant/Insurance Company.