

(2011) 05 SHI CK 0176
In the High Court Of Himachal Pradesh
Case No : FAO No. 520 of 2009

Oriental Insurance Company Ltd.

APPELLANT

Vs

Smt. Prem Lata and Others

RESPONDENT

Date of Decision : 03-05-2011

Acts Referred:

Motor Vehicles Act, 1988 — Section 163(A)

Citation : (2011) 05 SHI CK 0176

Hon'ble Judges : Dev Darshan Sud, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Dev Darshan Sud, J.—This appeal has been preferred by the Insurance Company challenging the award made by the learned Motor Accident Claims Tribunal, Mandi.

2. The case pleaded before the learned Tribunal was that Shri Dutender Kumar son of the Petitioners was driving a scooter No. HP 32-0497 which met with an accident. He suffered head injury and was rushed to zonal hospital, Mandi and thereafter PGI, Chandigarh when he died on the way. At the relevant time he was aged about 20 years. The allegations were that the accident was caused due to the rash and negligent driving on the part of the tempo traveler No. DL-1YA-8888 being driven by Jitender Singh Sehgal.

3. On the settled issues, the learned Tribunal allowed the claim, awarding a sum of Rs. 3, 69,500/- to the claimants herein.

4. The appeal challenging the award primarily on the ground that no award can be made against the Appellant who was the insurer of the scooter on the ground that the liability u/s 163-A of the Motor Vehicles Act is on the owner of the vehicle and a person cannot be both, claimant as well as recipient. Learned Counsel for the Appellant relies upon the decisions of this Court in Sohan Singh and Another Vs. National Insurance Co., and Oriental Insurance Co. Ltd. Vs. Rajni

Devi and Others,

10. The liability u/s 163-A of the Act is on the owner of the vehicle as a person cannot be both, a claimant as also a recipient. The heirs of Janak Raj could not have maintained a claim in terms of Section 163-A of the Act. For the said purpose only the terms of the contract of insurance could be taken recourse to.

5. This submission is made on the basis that Respondent No. 2, Rakesh Kumar before the Tribunal (Respondent No. 3 in this petition) is the owner of the scooter and that he cannot claim any compensation.

6. I do not think that the law cited advances the case of the Appellant herein. Respondent No. 3 is not advancing any claim. It is only the father and mother who have claimed the compensation and they are not the owners of the vehicle in question.

7. On the other points urged, I do not find any merits as the learned Tribunal has already discussed the facts in detail Appeal is accordingly dismissed. No order as to the costs.