
(2013) 04 AHC CK 0141

In the Allahabad High Court

Case No : First Appeal From Order No. 956 of 2013

Parashuram Pal and Others

APPELLANT

Vs

Ram Lakhan Rajawat and Another

RESPONDENT

Date of Decision : 12-04-2013

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2013) 04 AHC CK 0141

Hon'ble Judges : Rakesh Tiwari, J and Anil Kumar Sharma, J

Final Decision : Dismissed

Judgement

Anil Kumar Sharma, J.

The appellants have challenged the award dated 04.01.2013 passed by M.A.C.T./ Special Judge (D.D.A.) Jalaun at Orai in M.A.C.P. No. 151 of 2011: Parashuram and others Vs. Ram Lakhan Rajawat and another, whereby their claim petition for an award of compensation on account of death of Praddhumna Singh Pal alias Monu in motor accident had been rejected.

We have heard learned counsel for the appellants and perused the impugned award.

The appellants alleged in the claim petition that on 05.05.2011, deceased Praddhumna Singh Pal alias Monu was going to attend the marriage along with his father from the Village Bhepta to Sunaya and when their motorcycle reached at Tigara road, the driver of tractor registration no. MP07A.A.3825, driving the vehicle rashly and negligently came from the opposite side and dashed with the motorcycle. In the accident, Praddhumna Singh Pal alias Monu suffered grievous injuries. He was taken to Medical Hospital, Jhansi, where he succumbed in the morning of 06.05.2011. The appellants, being parents, grandmother, brother and sister of the deceased filed claim petition against the owner and insurer of the aforesaid tractor. The owner in his written statement denied the involvement of his vehicle stating that in the FIR neither

his name nor registration number of his tractor had been mentioned. The claim petition has been filed on the basis of false and incorrect facts. The insurer of the vehicle also denied the contention of the claimants taking alternative plea of plying the tractor in violation of terms and conditions of Insurance Policy. The Tribunal framed 6 issues for adjudication. Issue no. 1 was factual issue about the accident, involvement of tractor registration no. M.P.07A.A.3825 and its rash and negligent driving by its driver. The claimants filed documentary evidence and examined Parashuram Pal P.W.1. The owner of the vehicle produced himself as D.W.1 and the Insurance Company filed prescription of Dr. Dinesh Rajpoot. After hearing the parties' counsel and perusal of evidence on record, the Tribunal found that no doubt the deceased suffered accidental injuries on 05.05.2011 at about 7.00 P.M. and he died later on, but the claimants have failed to prove the involvement of the tractor M.P.07A.A.3825. Aggrieved appellants have come up in this appeal.

Learned counsel for the appellants has vehemently argued that the Tribunal has erred in appreciating the evidence on record in correct perspective and that the police after investigation has submitted charge sheet against the driver of the tractor M.P.07A.A.3825. He has further submitted that since the police has also found the driver of the aforesaid tractor guilty, therefore, the Tribunal has erroneously held that the accident did not take place on account of rash and negligent driving of the tractor M.P.07A.A.3825 by its driver.

The sole witness examined on behalf of claimants is claimant no. 1 i.e. the father of the deceased who was also accompanying his deceased son on motorcycle. This witness has reiterated the contention of claim petition stating involvement of the tractor M.P.07A.A.3825 and its rash and negligent driving by its driver. However, in cross-examination he has stated that he has not mentioned registration number of the tractor, but simply noted model "855" of the tractor. Similarly, he has admitted that he did not mention the name of the tractor owner Ram Lakhan, but has noted the name of Surendra Singh alias Dhapole Yadav as owner of the tractor. At other place, the witness has admitted that name of the tractor owner as mentioned by him in the claim petition is different than the FIR. Thus, from bare statement of claimant no. 1, the involvement of alleged offending tractor M.P.07A.A.3825 could not be proved.

Now the question is whether claim petition is sustainable against the offending tractor simply on the basis of the charge sheet submitted by the police after investigation against its driver? It is not res integra that in motor accident claim petition charge sheet filed by the police investigating the accident as a crime is not substantive evidence and compensation cannot be awarded only on this basis. The claimants can succeed only on the basis of substantive evidence adduced by them before the Motor Accident Claims Tribunal. The claimants have not examined any other witness who had informed the police about involvement of tractor of respondent no. 1.

On the contrary Ram Lakhan owner of the aforesaid tractor has been examined

himself as D.W.1, who has emphatically stated that about one year ago his tractor M.P.07A.A.3825 did not meet with any accident between the VillageNari and Sunaya. He has stated that false case has been filed against him and his driver has also been falsely implicated by the police.

It is pertinent to note that the alleged accident had taken place on 05.05.2011 at 7.00 P.M. when it is not so dark and father of the deceased could have very well noted the number of the offending tractor. The Tribunal has found that in the charge sheet the police has noted the name of claimant no. 1 only as eyewitness and other witnesses noted there, are formal witnesses. The claimants have not examined any other eyewitness of the accident to prove the involvement of the tractor registration no. M.P.07A.A.3825.

In view of the above discussion, we find that the Tribunal has correctly appreciated the evidence on record and has not at all erred in rejecting the claim of the appellants.

The appeal sans merit and is accordingly dismissed.