

(2016) 06 SHI CK 0184
In the High Court Of Himachal Pradesh
Case No : FAO No. 99 of 2011

Pepsu Road Transport Corporation	Vs	APPELLANT
Niraguna Balik Satsang Mandal		RESPONDENT

Date of Decision : 24-06-2016

Acts Referred:

Motor Vehicles Act, 1988 — Section 166, Section 173

Citation : (2016) 4 HimLR 1999

Hon'ble Judges : Mr. Mansoor Ahmad Mir, CJ.

Bench : Single Bench

Advocate : Mr. Ajay Sharma, Advocate, for the Appellant; Nemo, for the Respondent No. 2; Mr. Adarsh K. Vashista, Advocate, for the Respondent No. 1

Final Decision : Dismissed

Judgement

Mansoor Ahmad Mir, C.J. (Oral) - Challenge in this appeal is to judgment and award, dated 30th December, 2010, made by the Motor Accident Claims Tribunal-II, Solan, District Solan, H.P. (for short "the Tribunal") in M.A.C. Petition No. 45-s/2 of 2009, titled as Niraguna Balik Satsang Mandal v. Shri Darshan Singh and another, whereby compensation to the tune of Rs. 6,00,000/- with interest @ 9% per annum from the date of filing of the petition till its realisation and costs assessed at Rs. 10,000/- came to be awarded in favour of the claimant and the owner-insured was saddled with liability (for short "the impugned award").

2. The claimant and the driver of the offending vehicle have not questioned the impugned award, thus, has attained finality so far it relates to them.

3. The appellant-owner-insured has questioned the impugned award by the medium of the instant appeal on the grounds taken therein.

4. Mr. Ajay Sharma, learned counsel for the appellan-wner-insured argued that the claimant has failed to prove that the offending vehicle was being driven rashly and negligently by the driver at the time of the accident and the amount awarded is excessive.

5. Both these arguments are not tenable for the following reasons:
6. The claimant invoked the jurisdiction of the Tribunal by the medium of the claim petition for grant of compensation, as per the break-ups given in the claim petition, on the ground that the driver, namely Shri Darshan Singh, while driving the bus, bearing registration No. PB-03 Q-9028, rashly and negligently, on 22nd May, 2009, at about 5.00 P.M., at place Deonghat, caused the accident, in which its property was damaged.
7. The respondents in the claim petition have filed separate replies.
8. The driver of the offending vehicle, while replying the averments contained in para 24 of the claim petition, has admitted the factum of accident, but has stated that he was not driving the offending vehicle rashly and negligently, but the accident has taken place due to sudden latent mechanical defect in the offending vehicle. Meaning thereby, there is admission on his part that the accident was outcome of the use of motor vehicle. The owner-insured has also not denied the factum of accident.
9. The Tribunal, after scanning the evidence, oral as well as documentary, held that the driver of the offending vehicle had driven the same rashly and negligently at the relevant point of time. The driver of the offending vehicle has not questioned the said finding. Thus, it cannot lie in the mouth of the owner-insured that the driver of the offending vehicle was not rash and negligent.
10. Even otherwise, the factum of accident has been admitted, thus, the owner-insured is to be saddled with liability as the offending vehicle was not insured at the time of the accident.
11. The Tribunal, while taking into consideration the report of PW-3, R.P. Swami, has rightly made the discussion in para 12 of the impugned award and held that the claimant is entitled to compensation to the tune of Rs. 6,00,000/-.
12. Having said so, the impugned award is upheld and the appeal is dismissed.
13. Registry is directed to release the awarded amount in favour of the claimant strictly as per the terms and conditions contained in the impugned award through payee's account cheque or by depositing the same in its bank account.
14. Send down the record after placing copy of the judgment on Tribunal's file.