(2019) 05 UK CK 0290

In the Uttarakhand High Court

Case No : Appeal From Order No. 615 Of 2015

Rajendra Singh — APPELLANT

Vs

United India Insurance Company Ltd. And Others — RESPONDENT

Date of Decision : 28-05-2019

Acts Referred:

Citation : (2019) 05 UK CK 0290

Hon'ble Judges : Sharad Kumar Sharma, J

Bench : Single Bench

Advocate : Prashant Khanna, Naresh Pant, Jayvardhan Kandpal

Final Decision : Dismissed

Judgement

Sharad Kumar Sharma, J

1. There are two facts which are not disputed by any of the parties to the appeal, that:-

(i) The accident which has occurred on 25.09.2012. It was an accident which was caused by the truck bearing Registration No.U.K.- 13 C.A. 0231 (Tata 407), which was travelling from Joshi Math to Rudra Prayag it was carrying goods.

(ii) It is also not disputed that the appellant was travelling in the said truck as a gratuitous passengers. By the evidence produced before the court below, the appellant has not been able to show that he was travelling in the truck as a consequence of he having hired the vehicle for exclusively carrying his goods.

2. Owing to the aforesaid two conditions, his claim petition was rejected by the Motor Accident Claims Tribunal.

3. The factual backdrop as involved in the instant Appeal from Order is that as a consequence of the accident which has chanced on 25.09.2012, the truck (Tata 407), when it reached at the place of the accident, i.e. Unni Math not only the driver of the vehicle i.e. respondent no.3 herein who was driving the vehicle in a

rash and negligent manner but due to which it fell in a deep george about 15 to 20 feet deep resulting into grievous injuries on the person of the claimants and on account of the injuries suffered on his head he was seriously injured.

4. The claimants have submitted that as a consequence of the accident and the injuries suffered he was admitted in the hospital where they have to incur a handsome amount towards his treatment but despite of it as a consequence of the injuries suffered, it is the case of the appellant that the claimant has suffered 50% disability, because the right portion of his body had been completely crippled on account of accident. Hence, he has filed a claim petition claiming an amount of Rs.25 lacs as compensation. The Insurance Company contested the proceedings and filed their written statement Paper No.23 kha and while denying the pleadings raised in the claim petition, the Insurance Company had submitted that no amount of compensation would be payable to the claimant, who got injured due to the accident because he was travelling in the vehicle which was a commercial vehicle as gratuitous passengers and apart from that they would not be liable to pay any compensation as the vehicle which has met with an accident its owner has not produced its valid documents in order to show that the vehicle was being driven in accordance with the provisions of the Motor Vehicles Act, and once the vehicle was not driven with the valid documents, it means that the accident resulting into the injuries to the claimant had at least the Insurance Company cannot be held liable to give the compensation payable to the injured claimants.

5. The Insurance Company has further submitted that there is no proof on record placed by the claimant to show that he was travelling in the truck i.e. the vehicle involved in the accident not as a gratuitous passenger but as a person who has hired the truck as a whole for carrying his goods. The claim petition was considered by the Tribunal and the same has rejected on the ground that as per the evidence which was placed on record, though the injury might have been caused due to the accident in question but since the appellant was travelling as a gratuitous passenger at least the Insurance Company cannot be held liable to meet the compensation for the injuries suffered by him in the accident. After the exchange of pleadings, the learned Motor Accident Claims Tribunal framed the following issues and had recorded the following findings:-

1. While recording the finding on Issue No.1, the Court has concluded that on 25.09.2012, the truck in question was travelling from Joshi Math to Rudraprayag carrying vegetables and fruits in it and had met with an accident in which the appellant was found travelling as a gratuitous passenger because he was unable to proof the fact that he was the person who had hired the vehicle as a whole for carrying goods which belonged to him.

2. While deciding Issue No.2, the Motor Accident Claims Tribunal, had held that it was not a passengers' vehicle and admittedly as per the case raised and pleaded by the respondent nos.2 and 3, they admit the fact that it was the truck (Tata 407), which was involved in the accident in which the driver of the vehicle and

some other persons were also travelling. The court held that since the appellant was not travelling with the authority of having a ticket in the vehicle in question nor any fare was collected from him nor there was any proof to the said effect to show to the contrary. The Motor Accident Claims Tribunal by the impugned award dated 31.08.2015, had rightly rejected the claim petition holding thereof that since the appellant/claimant was admittedly travelling as a gratuitous passenger, he would not be covered by the policy under which the truck was registered and insured with the Insurance Company.

6. Hence, this court does not find any mistake or apparent error committed by the Motor Accident Claims Tribunal in rejecting the claim petition of the claimants, as he was found travelling in a commercial goods carrier on the date of the accident.

7. Accordingly, the present appeal too fails and the same is hereby dismissed. However, there would be no order as to costs.

