
(2013) 03 AHC CK 0103

In the Allahabad High Court

Case No : First Appeal From Order No. 579 of 2013

Senior Divisional Manager

APPELLANT

Vs

Vakil Yadav and Others

RESPONDENT

Date of Decision : 01-03-2013

Acts Referred:

Motor Vehicles Act, 1988 — Section 149
Penal Code, 1860 (IPC) — Section 304

Citation : (2013) 3 ALJ 461 : (2013) 97 ALR 712

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

Bench : Division Bench

Advocate : Amit Singh, for the Appellant;

Judgement

1. This appeal has been preferred challenging the impugned judgment and award dated 23.11.2012, passed by Motor Accident Claims Tribunal/Addl. District Judge (Ex-cadre), Chandauli in M.A.C.P. 94 of 2011, Vakil Yadav and another v. Shiv Kumar Chaudhary and others. The facts of the case in brief are that a claim petition was filed by the claimants before the Motor Accident Claims Tribunal, Chandauli for compensation in respect of death of deceased Pancham Yadav, who is said to have died in an accident on 22.6.2011. The appellant insurance company challenged and contested the claim petition by filing a written statement before the Tribunal. After considering the evidence on record and hearing learned counsel for the parties, the Tribunal fastened the liability upon the insurance company to pay compensation to the claimants.

2. Aggrieved, the appellant has filed this appeal.

3. The contention of learned counsel for the appellant is that Pancham Yadav (since deceased) did not die as a result of alleged accident on 22.6.2011 and in fact he had been murdered, which is authenticated by the charge sheet submitted against the driver of bus No. U.P. 50-F 0813 u/s 304 I.P.C. and that in these circumstances the appellant has no liability to pay the compensation u/s 149(1) of the Motor Vehicles Act. He argues that a perusal of the first information

report shows that the informant therein had stated that on the date of the incident the driver of the offending vehicle came to the Dhaba (hotel) of the deceased. A quarrel had taken place between them. The driver of the offending vehicle had thereafter left the place, threatening that he will kill the owner i.e. Pancham Yadav (since deceased). He had returned back with his vehicle after some time and is said to have rashly and intentionally drove the vehicle, hitting the deceased in his right leg, which was crushed. The owner later on died, therefore, the death of Pancham Yadav was not due to the accident but due to murder. It is lastly argued that since the act of causing injury to the owner of Dhaba, Pancham Yadav was intentionally done by the driver of the offending vehicle, as such the appellant insurance company has no liability to pay compensation to the claimants, but the Tribunal has absolutely ignored the aforesaid facts and has illegally and arbitrarily passed the impugned award against the appellant, insurance company, which being illegal and against the evidence an award is liable to be set aside.

4. No other point has been argued before us.

5. We have perused the record find that the Tribunal has considered this argument in detail in its award, the portion of which is as thus:

(Vernacular matter omitted..... Ed.)

6. Admittedly, the driver of the offending vehicle had driven away in his bus and if there was any intention to kill, he would have done it then and there. It transpires from the facts and record that after going he had returned after about 10-20 minutes and then accident was caused by the offending vehicle in which Pancham Yadav died. The time gap between the incident and the accident is about 20 minutes during which the driver of the offending vehicle had time to cool down, he had not acted rashly immediately after the quarrel, when he had gone away with the offending vehicle. He would not have known during this period that Pancham Yadav would be standing at a particular place where from his Dhaba (hotel) where the accident could have been caused.

7. In view of the facts and circumstances stated above, we find that it was a co-incident that the driver of offending vehicle had returned with his vehicle after some time and accident had been caused, which was unexpected.

8. For all these reasons, we do not find any illegality in the order of the Tribunal. The appeal sans merit and is dismissed accordingly. Statutory deposit made by the appellant in this Court be remitted back to the Tribunal within three weeks from today for adjustment.