
(2019) 12 UK CK 0077

In the Uttarakhand High Court

Case No : Appeal From Order No. 602 Of 2014

Shyamcharan & Another

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision : 12-12-2019

Acts Referred:

Citation : (2019) 12 UK CK 0077

Hon'ble Judges : Lok Pal Singh, J

Bench : Single Bench

Advocate : Hari Mohan Bhatia, V.K. Kohli, Rajni Supyal

Final Decision : Allowed

Judgement

Lok Pal Singh, J

1. This appeal is directed against the judgment and award dated 15.10.2014 passed by Motor Accident Claims Tribunal, Rudrapur, Udham Singh

Nagar in M.A.C. case no.191 of 2013, whereby the Tribunal has dismissed the claim petition of the claimants.

2. Briefly stated, facts of the case are, that on 16.5.2013 at about 04:30 AM Shivam and his friend Mukesh were going to Kichha by motorcycle.

When they reached near Manjeet Farm, a Nilgai jumped in front of car UK06-U6747 which was coming from the opposite direction. The car driver,

in order to avoid the accident, turned his car on the other side of the road, due to which Shivam and Mukesh dashed with car and fell down into a

ditch. Shivam and Mukesh sustained grievous injuries and Shivam died on the spot. This incident was seen by Resham Singh. F.I.R. of the incident

was lodged by claimant/appellant Shaymacharan at P.S. Sitarganj. With these averments, the claimants, who are the father and mother of the

deceased Shivam, filed the claim petition before the Motor Accident Claims Tribunal, Udham, Singh Nagar, seeking compensation to the tune Rs.

5,00,000/-.

3. Respondent nos.2 and 3 viz. owner and driver of the Car No.UK06-U6747 filed a joint written statement and contended that the respondent no.3 is

the owner of the car and on the date of accident respondent no.4 who is son of respondent no.2 was driving the car. On the date of accident, all the

papers of the vehicle were valid; driver was having valid and effective driving license; and the vehicle was insured with New India Insurance

Company Limited and if the tribunal arrives to the conclusion that the claimants are entitled to get any compensation, the Insurance Company would

be liable to pay the same.

4. Respondent no.1-New India Insurance Company Limited also filed its written statement and denied most of the averments of the claim petition due

to lack of information. He contended that neither the driver of the offending car nor the deceased was possessing valid and effective driving license on

the date of accident, hence, the claim petition is liable to be rejected.

5. On the pleadings of parties, the Tribunal framed the following issues:-

i) Whether on 16.05.2013 at about 04:30 pm at Kichha-Sitarganj road near Manjeet Farm due to sudden jump of Nilgai in front of Car bearing

no.UK06U-6747, the car turned on the other side and collided with the motorcycle, which resulted into the death of Shivam? If so, its effect?

ii) Whether the driver of offending car was having valid and effective driving license and the insurance of the car was also valid and effective? If so,

its effect?

iii) Whether the claimants are entitled to receive any compensation? If yes, to what amount and from which party?

6. Thereafter the parties led their oral and documentary evidence. The Tribunal, after hearing the learned counsel for the parties and on perusal of

record, dismissed the claim petition. While doing so, the Tribunal recorded finding that the deceased was driving the motorcycle and accident occurred

due to his own negligence. The Tribunal further recorded finding that the claimants have not impleaded the owner and Insurance Company of

motorcycle as party respondent, and in the absence thereof, the claimants are not entitled to get any compensation from the present opposite party.

7. I have heard learned counsel for the parties and perused the entire record.

8. The Tribunal has rejected the claim petition on the ground of non-joinder of necessary parties viz. the owner and insurance company of the

motorcycle. Motor Vehicles Act is a beneficial piece of legislation enacted to give solace to the victims of the motor accident who suffer bodily injury

or die untimely and the Court's approach, in such type of cases, should be humane in nature and not whittled down by technicalities. Having said

so, this Court is of the view that the matter should be remanded back to the Tribunal so that an opportunity may be given to the claimants to implead

the owner and Insurance Company of the motorcycle as party respondent in the claim petition.

9. In view of the above, impugned judgment and award dated 15.10.2014 passed by M.A.C.T. Udham Singh Nagar in M.A.C.P. case no.191 of 2013,

is hereby set-aside. Matter is remanded back to the Tribunal concerned for deciding the claim petition afresh, in accordance with law, after giving

opportunity to the claimants to implead necessary parties in the claim petition. The Tribunal shall thereafter decide the claim petition as expeditiously

as possible, preferably within a period of six months.