
(2009) 08 CHH CK 0015
In the Chhattisgarh High Court
Case No : M.A. No. 130 of 2004

Sita Ram Soni

APPELLANT

Vs

S.K. Saluke and Another

RESPONDENT

Date of Decision : 03-08-2009

Acts Referred:

Motor Vehicles Act, 1988 — Section 163A, 173

Citation : (2009) 3 MPJR 142

Hon'ble Judges : Rajeev Gupta, C.J.; Sunil Kumar Sinha, J

Bench : Full Bench

Final Decision : Dismissed

Judgement

Sunil Kumar Sinha, J.

The appellant/claimant has filed this appeal u/s 173 of the Motor Vehicles Act, 1988 against the award passed by the First Additional Motor Accident Claims Tribunal, Raipur in Claim Case No. 64/2002 on 14.10.2003.

The facts, briefly stated, are as under:

The appellant/claimant was the owner of Maruti Van No. CG-04-B-0146. The said vehicle met with an accident on 30.1.2002, when it was dashed against a tree by respondent No. 1, who was driving the vehicle at the time of the accident. The appellant/claimant was also the occupant of the vehicle. He filed a claim petition u/s 163A of the Motor Vehicles Act, 1988, claiming compensation of Rs. 40,50,000/- for the personal injuries sustained by him in the motor accident, which took place on account of rash and negligent driving of the said vehicle by respondent No. 1. Respondent No. 1 & 2 filed their written statements denying the contentions of the appellant/claimant. Respondent No.2/insurer also took a plea that the claim petition was not maintainable.

The learned Claims Tribunal recorded a finding that since the appellant himself was the owner of the offending vehicle, therefore, he would not be entitled to

receive compensation u/s 163A of the Motor Vehicles Act, 1988. The Claim Petition was accordingly dismissed.

Mr. Shivendu Pandya, learned counsel appearing on behalf of the appellant, argued that the Tribunal erred in law in holding that the claim petition filed by the appellant u/s 163A of the Motor Vehicles Act was not maintainable.

On the other hand, Mr. Shree Kumar Agarwal, learned Senior Counsel for the Insurance Company opposed these arguments and supported the award passed by the Claims Tribunal.

We have heard learned counsel for the parties at length and have also perused the records of the claim case.

Section 163A of the Motor Vehicles Act reads as under:

Section 163A. Special provisions as to payment of compensation on structured formula basis - (1) Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle of the authorized insurer shall be liable to pay in the case of death or permanent disablement due to accident arising out of the use of motor vehicle, compensation, as indicated in the Second Schedule, to the legal heirs or the victim, as the case may be.

Explanation - For the purposes of this sub-section, "permanent disability" shall have the same meaning and extent as in the Workmen's Compensation Act, 1923 (8 of 1923).

(2) In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or vehicles concerned or of any other person.

(3) The Central Government may, keeping in view the cost of living by notification in the Official Gazette, from time to time amend the Second Schedule.

The above provisions of Section 163A of the Motor Vehicles Act cannot be said to have any application in regard to an accident wherein the owner of the motor vehicle himself is involved. The liability u/s 163A of the Motor Vehicles Act is on the owner of the vehicle as a person cannot be both, a claimant as also a recipient (Please see - Oriental Insurance Company Limited vs. Rajni Devi and others, Claims Tribunal was fully justified in dismissing the Claim Petition filed by the appellant/claimant, who was admittedly the owner of Maruti Van No. CG-04-B-0146.

For the foregoing reasons, we do not find any illegality or infirmity in the award passed by the Claims Tribunal.

The appeal is liable to be dismissed and is hereby dismissed.

There shall be no orders as to the cost.