
(2004) 11 UK CK 0030
In the Uttarakhand High Court

Sohan Singh

APPELLANT

Vs

Naveen Kumar and Others

RESPONDENT

Date of Decision : 22-11-2004

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2005) 1 ACC 135

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Judgement

Prafulla C. Pant, J.—This appeal is preferred u/s 173 of Motor Vehicles Act, 1988, and is directed against the order dated 12th of July, 2004, passed by Mr. R.C. Kukreti, learned Presiding Officer of Motor Accident Claims Tribunal/ Additional District Judge/IIIrd Fast Track Court, Dehradun, whereby the claim petition was dismissed by him.

2. Brief facts of the case are that on 30.10.2001 at about mid-noon claimant's "Taai" (a relation addressed to father's elder brother's wife), Smt. Sharda Devi @ Savitri Devi, while taking water near air-strip, Jolligrant, to her home, got injured on being dashed by a jeep registration No. U.P. 07/D 2417. It was alleged by the claimant that the jeep was being driven rashly and negligently by its driver, Naveen Kumar (respondent). The injured lady was admitted in Himalayan Hospital, Jolligrant but could not be saved, and died of injuries at 3.15 p.m. The deceased was issueless. Claimant alleged that he used to look after the deceased and due to her death, he underwent mental shock and deprived of love and affection of his "Taai". It was further alleged that he spent Rs. 5,000/- on her funeral and expenses of Rs. 4,000/- in her treatment before death. As such in all Rs. 50,000/- for loss he has suffered, another Rs. 50,000/- for mental shock, Rs. 4,000/- on account of medical treatment, Rs. 5,000/- as expenditure on funeral and Rs. 10,000/- for expenses of the claim petition were claimed impleading the driver, owner of the jeep and the Oriental Insurance Company with whom the vehicle was insured at the time of the accident. The claim petition was contested

by the driver, respondent No. 1 and respondent No. 3, the Insurance Company while the owner of the vehicle did not file any written statement before the learned Tribunal.

3. Learned Tribunal after perusing the pleadings of the parties, framed the following issues:

(i) Whether Smt. Sharda Devi @ Savitri Devi, alleged to be "Taai" (a relation addressed to father's elder brother's wife), died on 30.10.2001, in Jolligrant, Dehradun, due to rash and negligent driving on the part of the driver of jeep registration No. U.P. 07 D/2417?

(ii) Whether the claimant is entitled to any amount of compensation from the respondents, if so to what extent and from which of the respondents?

(iii) Whether respondent No. 2, the driver of the jeep was holding a valid licence to drive the vehicle?

4. After recording the evidence and hearing the parties, the petitioner decided issue No. 1 in favour of the claimant to the extent that Sharda Devi @ Savitri Devi who died on 30.10.2001 in Jolligrant, Dehradun, due to the injuries received by her in the accident, due to rash and negligent driving on the part of the driver of jeep registration No. U.P. 07 D/2417 but the learned Tribunal came to the conclusion that the claimant failed to show any relationship with the deceased, having dependence on her or to be a legal representative of the deceased. Accordingly, he dismissed the claim petition, giving findings on issue No. 2. As to the issue No. 3, it was decided in negative as a photocopy of the driving licence was filed by the respondent No. 1 before the learned Tribunal.

5. Aggrieved by the rejection of the claim petition, this appeal has been preferred.

6. I heard learned Counsel for the parties and perused the record.

7. It is not a disputed fact that Sharda Devi died in the accident on 30.10.2001. From the evidence on record, it is clear that she died due to the injuries received by her in the accident of said date. In the written statement, respondent Nos. 1 has only denied having driven the vehicle with rash and negligence but receiving of injuries by Smt. Sharda Devi in the accident is not denied. It is only the respondent No. 3, who has denied most of the facts of the claim petition. But as far as the relationships of claimant with the deceased are concerned both the contesting respondents have denied if the deceased was close relation of the claimant. From the statement, recorded by Tribunal, of claimant as P.W. 1, it is clear that he stated that (Hindi matter omitted). The Tribunal has allegedly said that even in the statement on oath, the claimant did not dare to say that the deceased was his real "Taai" (a relation addressed to the father's elder brother's wife). It is not disputed that deceased was an issueless lady. P.W. 1 Sohan Singh (claimant) in his statement before the Tribunal has stated (Hindi matter omitted). That being so, the findings of the Trial Court, that the claimant failed to

prove himself to be the legal representative of the deceased, appears to be just and proper. In view of the said finding, the Tribunal has rightly rejected the claim of the appellant. This Appellate Court is in full agreement with the reasons and findings of the learned Tribunal. As such, in the opinion of this Court, the appeal is liable to be dismissed.

8. The appeal is dismissed.