
(2010) 09 SHI CK 0215
In the High Court Of Himachal Pradesh
Case No : FAO No. 549 of 2009

Sumit Kumar

APPELLANT

Vs

Aryan and Others

RESPONDENT

Date of Decision : 17-09-2010

Acts Referred:

Motor Vehicles Act, 1988 — Section 140, 166

Citation : (2010) 09 SHI CK 0215

Hon'ble Judges : Surjit Singh, J

Bench : Single Bench

Judgement

Surjit Singh, J.—Heard and gone through the record.

2. A Jeep is registered in the name of the present appellant Sumit Kumar. He transferred this Jeep to Sudershan Kumar (respondent No. 4). After the transfer of the vehicle, an accident took place, in which one Rakesh Kumar died. His dependents have filed a petition, u/s 166 of the Motor Vehicles Act, for award of compensation, impleading appellant Sumit Kumar and respondent Sudershan Kumar as owners and Insurance Company ICICI Lombard Motor Insurance as insurer.

3. An application for award of interim compensation, u/s 140 of the Motor Vehicles Act, was also moved. Motor Accident Claims Tribunal has awarded interim compensation of Rs. 50,000/- and directed that the present appellant alone would be liable to pay the compensation. Learned Tribunal has observed that Insurance Company cannot be held to be liable, because the appellant, having transferred the vehicle, had ceased to have had any insurable interest.

4. After hearing the learned Counsel for the parties, I feel that when the learned Tribunal observed that the vehicle stood transferred to respondent Sudershan, then the present appellant would not have been fastened with liability. In any case, the question as to whether the Insurance Company is liable, under the Policy, or not, is yet to be finally adjudicated in the main petition, u/s 166 of the

Motor Vehicles Act and, therefore, the right course required to be adopted by the Tribunal was to have directed the Insurance Company to pay the interim compensation, subject to the decision on the point as to whether it (the Insurance Company) is liable or not.

5. In view of the abovestated position, appeal is disposed of with the order that the amount of interim compensation money shall be paid by respondent-Insurance Company, but subject to the final adjudication of the question whether the Insurance Company is liable or not and in case the Insurance Company is held to be not liable, it shall have the right to recover the compensation money from that private respondent, who is ultimately held liable to pay the compensation.

6. Pending application, if any, stands disposed of, having become infructuous.