

(2008) 01 RAJ CK 0027

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 1592 of 2007

The New India Assurance Co. Ltd.

APPELLANT

Vs

Smt. Dharma and Others

RESPONDENT

Date of Decision : 16-01-2008

Acts Referred:

Motor Vehicles Act, 1988 — Section 140

Citation : (2008) 2 WLN 215

Hon'ble Judges : Manak Lall Mohta, J

Bench : Single Bench

Judgement

Manak Mohta, J.—This Misc. Appeal has been preferred by the appellant against the order of interim Award dt. 14.02.2007 passed by the learned Judge, Motor Accident Claims Tribunal, Hanumangarh, whereby the learned Tribunal has directed the appellant to deposit the amount of interim compensation to the tune of Rs. 50,000/-.

2. Brief facts of the case are stated like that on 16.03.2006, Manoharlal and Parmeshwar were going to Raipur from Chak 7 MZW Dablikala on TVS Victor Motor Cycle No. RJ 30-3M/0035. At that time, Manoharlal was driving the Motor Cycle. When they reached on the road of Sardarshahar at about 6.00 AM, then, they saw a jeet No. RJ 21-C/0660 coming towards them. The jeep was being driven by Lalchand (driver) rashly and negligently at high speed. The jeep hit the motor cycle, by which, Manoharlal fell down on the road and sustained grievous injuries on his person. He was shifted to hospital, where he was declared dead by the doctor. An FIR No. 27/2006 was registered on the same day at P.S. Pallu Teh. Rawatsar for the offences under Sections 279 and 304-A, IPC. The parents of the deceased Manoharlal have filed a claim petition along with application for interim Award under ?No Fault Liability? in the Court of Motor Accident Claims Tribunal, Hanumangarh. The claim case was registered and notices were issued to the non-claimants. After appearance of the parties, the learned Tribunal passed an interim Award dt. 14.02.2007 of Rs. 50,000/- against non-claimants i.e. owners

of the jeep and motor-cycle and the appellant. The non-claimant No. 5 has deposited Rs. 25,000/- under protest and being aggrieved by that, the present appeal has been filed. Notice of the appeal was given to the respondents.

3. Heard learned Counsel for the parties and perused the impugned order as well as the record of the case.

4. During the course of arguments, learned Counsel for the appellant submitted that the learned Tribunal has erred in directing the appellant to pay interim compensation of Rs. 50,000/- beyond the scope of Section 140 of the M.V. Act. It is submitted that the liability for payment under 'No Fault Liability' could not be fastened on the insurer or owner of the motor cycle, particularly when the accident was caused by some other offending vehicle i.e. RJ 21-C/0660. It was also submitted that the deceased Manoharlal was not 3rd party in this case qua the appellant as he himself was driving the motor cycle, therefore, the order passed by the learned Tribunal is required to be quashed and appeal may be allowed.

5. The learned Counsel for the respondents refuted the contentions and supported the interim award passed by the learned Tribunal. He further submitted that at this stage, fault of any vehicle was not to be seen but mere involvement of the vehicle was to be seen. By that point of view, the said motor cycle was also involved in the accident. It was submitted that the concerned jeep was also insured with the appellant-Insurance Company, therefore, even from this angle, the appeal is not maintainable. The grounds stated in the appeal, are not tenable. It was prayed that the appeal may be dismissed.

6. I have considered the rival contentions placed by the parties and carefully perused the record. From perusal of the material available on record. It is made clear that there was a collusion between two vehicles i.e. Motor Cycle bearing No. RJ 30-3M/0035 and Jeep bearing No. RJ 21C/0660, therefore, the concerned two vehicles were involved in the accident. At this stage, fault of either vehicle was not to be examined. It is not disputed that deceased Manoharlal expired in accident out of use of the said motor cycle. It is also not disputed that motor cycle was insured with the appellant. Further more, it has been stated by the owner of the jeep that jeep was also insured with the same insurance company. Thus, on the basis of the aforesaid discussion, the order passed by the learned Tribunal for interim compensation and fixing the liability for the payment entirely on the appellant is not illegal.

7. On the basis of the aforesaid discussion, the appeal filed by the appellant deserves to be dismissed and it is hereby dismissed. The order under appeal is confirmed. No order as to costs.