
(2010) 11 SHI CK 0269
In the High Court Of Himachal Pradesh
Case No : FAO No. 396 of 2005

United India Insurance Co. Ltd.

APPELLANT

Vs

Rattan Singh and Others

RESPONDENT

Date of Decision : 11-11-2010

Acts Referred:

Penal Code, 1860 (IPC) — Section 279, 304A

Citation : (2010) 11 SHI CK 0269

Hon'ble Judges : Dev Darshan Sood, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Dev Darshan Sud, J.—The Insurance Company is aggrieved by the award passed by the learned Motor Accident Claims Tribunal-II, Solan granting a sum of Rs. 90,000 /- to the claimant for causing the death of his wife.

2. Brief facts of the case are that on 26.7.2002 the Petitioner had hired a tractor No. PB-12E-8669 for ploughing his land situated in village Rampur Panswalan. The driver of the tractor while reversing it entangled Smt. Satya Devi in the plough and crushed her. She received multiple injuries and died as a result thereof. The post mortem of the deceased was conducted in Civil Hospital Nalagarh and First Information Report No. 101/02 dated 28.6.2002 u/s 279 and 304A IPC was registered at the Police Station. This petition was resisted by the Respondents on a number of grounds. Six issues were settled. The crucial issue of course were whether the accident had occurred on 27.6.2002 on account of rash or negligent acts of Respondent No. 1, whether the driver was not having valid and effective driving licence, a valid registration certificate and fitness certificate and whether there was any collusion between the claimant and the driver of tractor and what amount of compensation to be paid.

3. Learned Counsel appearing for the Appellant submits that the learned Court was wrong in awarding the compensation as it was not proved on record that the

deceased Satya Devi was the wife of claimant Rattan Singh. He refers to the evidence of parties on record and submits that since no registration certificate of marriage from the Panchayat record has been produced, as such no compensation can be awarded.

4. I have heard learned Counsel for the parties and gone through the record. While dealing with this issue, the learned Tribunal basically relied upon the evidence of claimant, PW3 Hans Raj and PW4 Gurdas Singh.

5. Adverting to the evidence of PW2 Rattan Singh, he states in his evidence that the deceased was his wife and used to perform agriculture work. She was earning about Rs. 5000/- per month. On 27.6.2002 at about 10.30 PM the deceased was sleeping outside the house when the tractor in question came and ran over her and crushed her, due to which she sustained multiple injuries and died on the same day. The post mortem report Ext.PB shows that she had died because of crush injuries. In his cross examination he states that Kartari Devi was his first wife who died on 31.12.1989. He was asked as to whether he has brought any proof of his marriage with the deceased to which his answer was negative. He admits that Satya Devi has not been entered as his wife in the record of Panchayat. The Panchayat has refused to enter her name in record. He was married about five years back. He denied that he was stating this relationship only to claim compensation.

6. PW3 Hans Raj is not familiar with the exact date and time when Satya Devi was married with the claimant, although he states that she was residing with the claimant but denied that she was mentally retarded and used to sleep everywhere wherever she wanted. The evidence of PW4 Gurdas Singh is relevant. He is the brother of the deceased. He states that she was married to the Petitioner. He has been subjected to cross examination, but nothing has been elicited which is against the claimant.

7. PW5 Harvinder Singh also states that the deceased was the wife of the claimant. In rebuttal, the Respondents have produced Shiv Dass Panwar, who was posted as Assistant Administrative Officer of the Company and states that according to the report submitted by Mr. A.P. Singh, the Investigator Officer, no relationship of the deceased with the claimant could be established. This report cannot be relied upon for the reason that it is the author of the report who has to prove it and original material on which it is based is also to be examined.

8. The evidence on record clearly shows that the deceased was in fact married to the claimant. There is no rebuttal evidence that PW4 Gurdas Singh who also proves the marriage is not the brother of the deceased. It is notorious that nobody carries marriage certificate around with him more especially in the villages. The plea taken by the Insurance Company cannot be accepted. The oral evidence on record is sufficient to establish the relationship. I find no merit in the appeal of the Insurance Company, which is accordingly dismissed.