
(2009) 04 DEL CK 0513
In the Delhi High Court
Case No : Mac. App. 9 of 2009

United India Insurance Co. Ltd.		APPELLANT
	Vs	
Mohinder Singh and Others		RESPONDENT

Date of Decision : 28-04-2009

Acts Referred:

Motor Vehicles Act, 1988 — Section 170

Citation : (2009) 04 DEL CK 0513

Hon'ble Judges : J.R. Midha, J

Bench : Single Bench

Advocate : Udit Kumar Chaturvedi, for A.K. De, for the Appellant; Navneet Goyal, for R-1, for the Respondent

Final Decision : Dismissed

Judgement

J.R. Midha, J.—The appellant has challenged the award of the learned Tribunal whereby compensation of Rs. 8,64,530/- has been awarded to claimant/respondent No. 1.

2. The accident dated 14th April, 2001 resulted in grievous injuries to claimant/respondent No. 1. The claimant/respondent No. 1 was getting down from the bus bearing No. DL-1PA-5478 at the bus stop when the driver suddenly moved the bus due to which claimant/respondent No. 1 fell down and his left leg was crushed under the rear wheel of the bus resulting in fracture of left leg and ankle joint. The disability suffered by the claimant was assessed at 25%.

3. The appellant has challenged the quantum of compensation awarded to the claimant. However, the appellant admits that they had not taken the permission from the learned Tribunal u/s 170 of the Motor Vehicles Act.

4. It is well settled that in the absence of the defence taken over u/s 170 of the Motor Vehicles Act, the insurance company cannot maintain the appeal on the quantum of compensation. Reference in this regard be made to the judgments by the Hon''ble Supreme Court in the cases of National Insurance Co. Ltd.,

Chandigarh Vs. Nicolletta Rohtagi and Others, and Shankarayya and Another Vs. United India Insurance Co. Ltd. and Another, where the Hon"ble Supreme Court has clearly held that in the absence of defence as envisaged u/s 170 of the Motor Vehicles Act being taken over by the insurance company, the appeal filed by the insurance company cannot be maintained.

5. In view of the above stated legal position, the appeal filed by the insurance company is not maintainable.

6. Notwithstanding the bar of Section 170 of the Motor Vehicles Act, the compensation awarded by the learned Tribunal is just, fair and reasonable and, therefore, no case is made out even on merits.

7. For all the aforesaid reasons, the appeal is dismissed.

8. No costs.