
(2013) 04 RAJ CK 0007

In the Rajasthan High Court

Case No : Civil Appeal No. 688 of 2008 and Civil Misc. Stay Application No. 6434 of 2008

United India Insurance Co. Ltd.

APPELLANT

Vs

Smt. Anachi Bai

RESPONDENT

Date of Decision : 10-04-2013

Acts Referred:

Citation : (2014) 1 ACC 730 : (2014) 1 CDR 349

Hon'ble Judges : M.C. Sharma, J

Bench : Single Bench

Judgement

Mahesh Chandra Sharma, J.—Since all these four appeals have been filed against the judgment and award dt. 22.11.2007 passed by Motor Accident Claims Tribunal, hence the arguments have been heard together and they are being decided by this common judgment. Brief facts of the case are that on 24.8.2003 at about 2.00 PM, the claimants were going in Jeep No. MH 04 AY 3425 from Mumbai to Nasik. When they were passing through the border of village Kasara, a truck appeared in front of jeep. The driver of the Jeep drove the jeep rashly and negligently and hit the truck at its wrong side, as a result of which the claimants sustained injuries on their bodies.

2. FIR was lodged. Claim petition Nos. 165/2004, 166/2004, 167/2004 and 168/2004 were filed. Notices were issued, issues were framed, reply was filed and after hearing both the sides, the learned Tribunal decreed an amount of Rs. 1,42,000/- in claim petition No. 165/2004; Rs. 3,48,000/- in claim petition No. 166/2004; Rs. 1,05,000/- in claim petition No. 167/2004; and Rs. 2,15,000/- in claim petition No. 168/2004 in favour of claimants and against the non-claimants.

3. Against the aforesaid judgment and award, the Insurance Co. has filed the aforesaid four appeals.

4. Learned counsel for the Insurance Co. has contended that the findings of the learned Tribunal that the accident had taken place on account of negligent

driving of the jeep driver and whereby the driver of the truck has totally been exonerated, is absolutely reverse, he has further contended that the Findings of the learned Tribunal that the jeep driver was driving the jeep negligently and hit the truck on the wrong side, cannot be the only ground of holding the jeep driver entirely responsible for the accident. He has further contended that the Jeep was going from Bombay to Nasik and the truck driver absconded as soon as the accident had taken place. Therefore, it cannot be said by any stretch of imagination that the accident had occurred only at the instance of Jeep driver and the truck driver was not at all responsible for the accident. Hence, the entire responsibility for the accident cannot be shifted upon the jeep driver and so the findings of the learned Court below in this regard is absolutely perverse and cannot be sustained in the eye of law. He has further contended that AD-2 herself had admitted in her cross-examination that they had hired the taxi for going to Kumbh and had also admitted that the Taxi, which they hired, was not belonging to their relatives. Therefore, looking to the specific statement given by the AD-2, the findings of the learned. Tribunal becomes perverse and is a case of non application of mind on the face of it. The jeep was being used as a Taxi as it was registered under the Private Car Package Policy. In that view of the matter, there had been a gross violation of the condition of the policy and for which the Insurance Company could not be saddled with any responsibility and liability to make the payment to the claimants. Other witnesses have also admitted that they had hired the said jeep as a taxi and were travelling from Bombay to Nasik in the said jeep and that was not belonging to their relatives. Hence, the findings of the learned Tribunal while deciding issue No. 5 becomes perverse and cannot be sustained in the eye of law. Hence the impugned judgment and award passed by the learned Tribunal deserves to be quashed and set-aside.

5. E converso, the learned counsel for the respondents defended the impugned judgment and award and stated the same to be just and apposite.

6. Having heard learned counsel for the parties and carefully perused the impugned award including the relevant material on record, no evidence is found to have been produced on behalf of the appellant-Insurance Co. with regard to contributory negligence and invalid and ineffective driving license of the Jeep driver, whereas the claimants produced clinching evidence, on the basis of which the learned Tribunal came to the conclusion that the accident took place due to the rash and negligent driving of the driver of Jeep and decided issue No. 3 against the appellant-Insurance Co. The impugned judgment and award passed by the learned Tribunal is just and apt, based on cogent Findings, with which I fully concur. Hence I do not find any ground to interfere in the impugned award passed by the learned Tribunal.

7. For these reasons, the appeals filed by the appellant being bereft of any merit deserve to be dismissed, which stand dismissed after confirming the judgment and award passed by the learned Tribunal. Stay applications also stand dismissed.