

Yad Ram Vs. Seema Devi

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SooperKanoon Citation : sooperkanoon.com/484898

Court : Allahabad

Decided On : Aug-05-1996

Reported in : 1998ACJ485

Judge : S.K. Phaujdar, J.

Appeal No. : Civil Revision No. 525 of 1995

Appellant : Yad Ram

Respondent : Seema Devi

Disposition : Petition allowed

Judgement :

S.K. Phaujdar, J.

1. The matter was heard on 1.8.1996 in absence of the respondent as he did not appear on call. An application for compensation under the Motor Vehicles Act made before the court below showing the present revisionist as the owner of the offending vehicle. At a late stage of the proceedings the present revisionist made a prayer for amendment of his written statement to say that he was not the sole owner and another person Danbeer Singh, was also a co-owner of the vehicle. The application was dismissed by the Motor Accidents Claims Tribunal on the ground that it was a delayed one and was filed solely for the purpose of lingering

the matter. Order VI, Rule 17 of the Civil Procedure Code permits amendment at any stage. If the court below was of the view that the amendment was sought for at a late stage he could have allowed costs. The purpose of amendment is to allow party to bring the whole case before the court. When it is the definite defence of revisionist that he was not the sole owner of the concerned vehicle and that the vehicle in question was not insured at the relevant time, the presence of the other co-owner was necessary as it would be joint responsibility of both the owners, if at all any responsibility is fixed on them for compensation. In my view, the Tribunal had committed an error of law in not exercising a jurisdiction given to him. I am further of the view that if the order is allowed to stand there will be irreparable loss to the present applicant as he alone may be found responsible for payment although there was a co-owner.

2. Under these circumstances, the revision application stands allowed. The Motor Accidents Claims Tribunal is directed to allow the application for amendment of the written statement subject to payment of cost of Rs. 500/- to be paid by the present revisionist to the claimant within a month from today. If after such amendment the applicant before the Tribunal proposes to amend her pleadings the same would be allowed. Evidence may be taken thereafter to decide the issue before the court below.