

Naresh Kumar Vs. Manmati

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Court : Madhya Pradesh

Decided On : Sep-26-1996

Reported in : I(1997)ACC102

Judge : N.P. Singh, J.

Appellant : Naresh Kumar

Respondent : Manmati

Judgement :

N.P. Singh, J.

1. This appeal is directed against the interim award dated 3.5.1995 passed by the Second Additional Motor Accidents Claim Tribunal, Bilaspur in Claim Case No. 28/90 awarding interim compensation of Rs. 15,000/-to the claimant/respondent No. 1 by holding the appellant/owner of the vehicle alone liable for payment of compensation. The respondent No. 2/United India Insurance Co. Ltd. has been exonerated from the liability on account of the breach of the terms of the Insurance Policy.

2. It is well settled that while deciding an application under Section 140 of the Motor Vehicles Act, 1988, the Claims Tribunal is not required to consider the defence set up by the Insurance Company. What is required to be established by the claimant is that there was an accident which resulted in the death or

permanent disability to the claimants.

3. In the instant case, the claimants have clearly established that there was an accident, which resulted in the death of the deceased. The accident took place on 23.3.1989, i.e., before the commencement of the Motor Vehicles Act, 1988, which came into force on 1.7.1989 and, therefore, the liability of the Insurance Company is to the extent of Rs. 15,000/-. It is also admitted position that the offending vehicle was insured with the respondent No. 2/Insurance Co. Therefore, the respondent No. 2/Insurance Co. cannot be absolved from the liability on the ground of breach of the terms of the Insurance Policy. The impugned order dated 3.5.1995 exonerating the Insurance Co. and holding the appellant/ owner alone liable for payment of compensation is bad in law and cannot be sustained. Accordingly, it is set aside and the impugned order is modified to the extent that the respondent No. 2/Insurance Co. is also held liable, jointly and severally, to pay compensation to the claimants.

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