

Manish Narayan Vs. Seem Bourln and ors.

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SooperKanoon Citation : sooperkanoon.com/517552

Court : Jharkhand

Decided On : Jan-13-2009

Reported in : 2009ACJ2271; [2009(2)JCR287(Jhr)]

Judge : M.Y. Eqbal and; Jaya Roy, JJ.

Appellant : Manish Narayan

Respondent : Seem Bourln and ors.

Advocate for Pet/Ap. : Mr. Shailesh

Judgement :

ORDER

1. This appeal by the owner of the offending vehicle is directed against the judgment and award dated 22nd August, 2007 passed by the Motor Accident Claims Tribunal, Dhanbad in Title (M.V.) suit No. 136 of 2003, whereby a sum of Rs. 2,81,500/- has been awarded for the death of the occupant of the scooter namely Atul Bauri.

2. Mr. Shailesh, learned Counsel for the appellant-owner of the offending vehicle, assailed the impugned award mainly on the ground that it was a case of contributory negligence, but the Tribunal did not consider this aspect of the matter and saddled the entire liability on the appellant.

3. From perusal of the record it appears that on the fateful day of accident, the deceased along with one more pillion rider, was sitting on the Scooter which was being driven by another person Vinod Bouri. The said scooter was dashed by the offending vehicle which was a car owned by the appellant. Nothing has been brought on record that the person, who was driving the scooter, was holding a valid driving licence. Admittedly, driving Scooter with two pillion riders is not permissible in law. It can, therefore, be safely concluded that it is a case of contributory negligence.

4. In our view, therefore, certain amount must be deducted for the contributory negligence on the part of the deceased and the other occupants of the scooter. If 30% of the compensation amount is deducted for the contributory negligence, the compensation amount comes to about Rs. Two lacs. Learned Counsel appearing for the parties have fairly agreed that a lump sum of Rs. Two lacs shall be paid by way of compensation to the claimants-respondents.

5. For the reasons aforesaid, this appeal' is allowed in part. The appellant is directed to pay a lump sum of Rs. Two lacs to the respondents-claimants within four weeks from today.