

Rugga Singh and ors. Vs. Prem Singh and ors.

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Court : Rajasthan

Decided On : May-19-2004

Reported in : 2006ACJ1453; RLW2004(4)Raj2644; 2004(4)WLC139

Judge : Gyan Sudha Misra, J.

Acts : Motor Accident Claims Tribunal Rules, 1964 - Rule 20; [Motor Vehicles Act, 1988](#) - Sections 166

Appeal No. : S.B. Civil Misc. Appeal No. 838 of 2002

Appellant : Rugga Singh and ors.

Respondent : Prem Singh and ors.

Advocate for Def. : Inderjeet Singh, Adv.

Advocate for Pet/Ap. : J.P. Gupta, Adv.

Disposition : Appeal allowed

Judgement :

Gyan Sudha Misra, J.

1. This appeal has been preferred against the award of the Motor Accident Claims Tribunal, Beawar by which the claim petition filed by the legal-heirs of the deceased-Han Singh, who died as a result of the accident caused by Vehicle No.

HR-38-BJ-7971 which was insured with the respondent No. 3-United India Insurance Co. Ltd., has been rejected only on the ground that the eye-witness to the accident was not produced by the claimant-respondent.

2. Having heard the counsel for the parties and after perusing the award of the Tribunal rejecting the claim petition, it could be noticed that the accident caused by the Vehicle No. HR-38-BJ- 7971 took place on 18th March, 1998 and the first information report was duly lodged on the same date disclosing the identity of the offending vehicle also which caused the accident vide Ex.2. It is thus obvious from this that the date of the accident and the identity of the vehicle was both disclosed immediately after the accident and there is no lack of evidence on this point. This solitary evidence alone should have been enough for the Tribunal to entertain the claim petition and conduct the proceeding for determining the compensation after taking all relevant facts into consideration, but the Tribunal appears to have rejected the claim of the appellants solely on the ground that the eye witness to the accident was not produced by the claimant-respondents.

3. It is difficult to appreciate this approach of the Tribunal as the Judge of the Tribunal ought to have known that it is the factum of accident, involvement of the deceased in the accident and the identity of the vehicle which are the most relevant considerations for entertaining a claim and the eye witness, if any, to the accident are only witnesses on the point of corroboration of the accident. If the factum of the accident is proved by a single circumstance, which is indicated from the first information report wherein the identity of the vehicle and death of the deceased is clearly, proved, then the fact that it was not corroborated by adducing evidence of the eye witnesses cannot be a reason to disbelieve the unimpeachable evidence that the accident was caused by the vehicle whose identity has prima facie been proved and even if there be any doubt about its identity, the same can definitely be scrutinised at the stage of determination of the proceeding. But to reject the claim itself inspite of prima facie proof of involvement of the vehicle as also the fact that the accident indeed took place, is bound to result into serious miscarriage of justice. Ignoring ample evidence in regard to the factum of accident which has to be held as primary evidence on the ground that the secondary evidence of eye witnesses were not available can hardly be held to

be a sound reasoning to reject the claim itself. The Tribunal therefore was clearly in error in rejecting the claim petition filed by the claimant-appellants at its initiation itself on the ground that the eye witness to the accident had not been produced. This reason relied upon by the Tribunal while rejecting the claim petition of the claimant-respondents is not fit to be upheld. Consequently, the impugned order of the Tribunal rejecting the claim petition is set aside which has resulted into grave miscarriage of justice to the interest of the dependants of the deceased-appellant.

4. As a result, the Claim Petition No. 152/98 which had been rejected by the Motor Accident Claims Tribunal at Beawar by order dated 22.3.2002 against which this appeal arises is restored and remanded to the Motor Accident Claims Tribunal at Beawar for its decision on merit in accordance with law after hearing the concerned parties wherein the Tribunal shall be at liberty to investigate regarding the existence of the accident also except that it will not reject the claim merely for want of eye witnesses to the accident.

5. The counsel for both the parties are directed to inform the contesting parties to approach and appear before the Motor Accident Claims Tribunal at Beawar on 6th July, 2004 and the Tribunal shall proceed in the matter as per the procedure. The record, if retained in this Court, be remitted to the Tribunal immediately for the needful. The appeal accordingly stands allowed and disposed of.