Ram Karan Vs. Mooli Devi and ors.

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SooperKanoon Citation : sooperkanoon.com/769688

Court : Rajasthan

Decided On : Dec-10-2004

Reported in : I(2005)ACC745

Judge : Dalip Singh, J.

Appellant : Ram Karan

Respondent : Mooli Devi and ors.

Judgement :

Dalip Singh, J.

1. This appeal has been filed against the award dated 25.11.1992 passed by the Motor Accident Claims Tribunal, Jaipur, Distt. Jaipur (hereinafter referred to as 'The Tribunal') in Claim Petition No. 2/1992 filed by the claimant respondent Nos. 1 to 8 whereby the application under Order 9 Rule 13, C.P.C. filed by the appellant who was the owner of the offending vehicle bearing Registration No. RJL 4848 was dismissed and the learned Tribunal declined to set aside the ex parte award.

2. The submission of the learned Counsel for the appellant is that the appellant was alleged to be the owner of the offending vehicle (Truck) RJL 4848. It is alleged that in fact, he was not the registered owner thereof. He submits that the service of the summon was also not effected upon the appellant and the learned Tribunal has erred on passing the award ex parte against the appellant.

3.1 have perused the record and the impugned order passed by the Tribunal. The Tribunal has given the cogent reasons for refusing to set aside the ex parte award. The learned Tribunal has also found that on the basis of the evidence (Ex. 6) that the appellant Ramkaran moved an application in the Court of the Magistrate for giving truck on 'Supurdaginama' to him during the pendency of the trial of the case of driver Chhatar Singh for offence under Sections 304A, 337, 338, 427 and 279,1.P.C. and the copy of the Challan (Ex. P. 2) was also filed on record. (Ex. P. 7) is the order of the Court of the learned Magistrate by which the truck was handed over to the appellant on Supurdaginama. Ex. P. 11 is the statement given by the appellant before the police wherein he has deposed that he was the owner of the offending vehicle. Even assuming that the said document (Ex. P. 11) is inadmissible, the other evidence on record clearly establishes beyond doubt particularly by way of the conduct and admission of the appellant that he was the owner of the offending vehicle.

4. In this appeal, the question is whether the appellant was served with the notice of the proceedings or not before the Tribunal and whether the proceedings ex parte should be set aside or not on account of the non-service of the summons on the appellant.

5. The learned Tribunal has found that on record, there is evidence to show by way of receipt of acknowledgement that the summons were served upon the appellant. The said receipt bears the signature of the appellant dated 18.2.1997. The Tribunal has further found that the appellant did not care to file any affidavit in support of the plea that the summons were not served upon him. The findings arrived at by the Tribunal is that the summons were duly served upon the appellant.

6. In the facts and circumstances of the present case and the evidence on record established that the appellant was duly served with the summons. In this view of the matter, the finding arrived at by the Tribunal calls for no interference by this Court.

7. Consequently, the appeal fails and the same is hereby dismissed. It has been brought to my notice that this Court on 12.1.1994 had directed that the amount of

Rs. 50,000/- be deposited by way of fixed deposit by the appellant in the name of the respondent-claimants and the same would be subject to the final adjudication of the appeal. In view of the fact that the appeal has, itself, been dismissed, the order with regard to the payment of amount to claimants is final and no further order is required to be passed as the same was subsequently ordered to be released in favour of the claimants by order dated 1.10.1999. The payment so made to the claimants is final.

No order as to costs.