

Rajendra Kumar and ors. Vs. Dinesh Kumar and ors.

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SooperKanoon Citation : sooperkanoon.com/771315

Court : Rajasthan

Decided On : Feb-14-2006

Reported in : II(2006)ACC846

Judge : K.C. Sharma, J.

Appellant : Rajendra Kumar and ors.

Respondent : Dinesh Kumar and ors.

Judgement :

K.C. Sharma, J.

1. Through this appeal under Section 110D of the Motor Vehicles Act, 1988 (sic. 1939) the appellant seeks to quash the award dated 27.10.1989 passed by the Motor Accident Claims Tribunal, Jaipur by which the learned Tribunal while awarding compensation has made liable the appellant along with others jointly and severally to pay compensation to the claimants.

2. On 25.2.1982, while deceased Ganesh Narain along with his son Dinesh was on way to his house on Suvega No. RSM 201, truck No. RJZ 7535 which was alleged to be driven rashly and negligently by its driver Magan Singh hit the Suvega, as a result of which Dinesh sustained injuries while Ganesh Narain succumbed to the injuries. Two claim petitions, one by dependants of deceased and another by injured were filed. The learned Tribunal having held that accident

occurred due to rash and negligent driving of truck, accepted the claim petitions, making the appellant and other liable jointly and severally to pay compensation.

3. Learned Counsel for the appellant has challenged the award only on the ground that the Tribunal has committed serious illegality in making him liable to pay the compensation. He strenuously contended that appellant had sold the truck involved in the accident to one Ghasi Ram, respondent No. 3 on 15.10.1981 i.e., much before the date of accident and, therefore, he cannot be held liable to pay the compensation.

4. I have considered the above arguments and gone through the impugned award the material on record. The learned Tribunal framed specific issue No. 3 to the effect that whether opposite party No. 2 i.e., the appellant had sold his truck on 15.10.1981 to Ghasi Ram and if so, what would be its effect. Since the appellant failed to lead any evidence, the Tribunal decided this issue against him. Having gone through the impugned award and the evidence, I also find that appellant has not been able to produce any evidence to establish that he had sold the truck to Ghasi Ram or that he got the registration transferred in the name of Ghasi Ram prior to the date of accident. In this view of the matter, I do not find any infirmity in the award passed by the Tribunal.

5. Consequently, the appeal having no force is hereby dismissed.