

Court No. - 21

Case :- FIRST APPEAL FROM ORDER No. - 48 of 1997

Appellant :- Smt. Savitri Devi Shukla And Others

Respondent :- Sheopuri And Another

Counsel for Appellant :- Vishnu Gupta, Amit Kumar Sinha, S.C. Shukla

Counsel for Respondent :- Smt. A. Singh

Hon'ble Krishna Murari, J.

Hon'ble Shailendra Kumar Agrawal, J.

This First Appeal From Order has been filed by the claimants-appellants challenging the judgment and award dated 1.10.1996 passed by the Motor Accident Claims Tribunal rejecting the claim petition.

Facts giving rise to the dispute are as under:-

The claimants-appellants filed an application, under Section 140 read with Section 156 of the Motor Vehicles Act seeking a compensation to the tune of Rs.8,75,000/- on the allegation that one Gaya Prasad Shukla aged about 48 years was working as Junior Engineer in the Irrigation Department earning about Rs.6,000/- per month died in an accident on 3.6.1994 at about 7.15 A.M. It was further alleged that when the deceased was going on his Scooter, he was hit by Truck No.U.P.70-9380 causing grievous injuries, which resulted into his death. Proceedings were contested by the respondent No.1 owner of the offending vehicle denying the allegations made in the claim petition. However, it was admitted that he was owner of the vehicle in question and same was insured by the respondent no.2, New India Insurance company. In the written statement the factum of accident, has specifically been denied. Respondent No.2, New Indian Insurance Company has also filed written statement denying the accident.

On the basis of the pleadings, the Tribunal framed four issues and one of the issue was whether Gaya Prasad Shukla died on

3.6.1994 at about 7.15 A.M. on account of accident caused by offending Truck No.U.P.70-9380, which was being driven rashly and negligently.

In support of the claim, the claimants-appellants produced appellant no.1, wife of the deceased. Admittedly, she was not an eye witness of the accident and another witness Anil Kumar Tiwari was produced who is alleged eye witness of the accident. He stated in the examination-in-chief that on the fateful day, he was sitting in a tea shop reading newspaper when he saw offending Truck hit the scooter of the deceased from the behind. He also stated that there was a young boy who was a pillion rider who fell down and received injuries.

The Tribunal disbelieved the statement of the eye witness on the ground that it was not mentioned in the first information report that there was some pillion rider also along with the deceased. The statement of witness has further been disbelieved by the Tribunal since in his cross-examination, he admitted that he did not know the name of the pillion rider and although he went to the site of the accident but did not know his name nor he could tell who took the injured pillion rider to the hospital. He further stated that just after the accident, a departmental vehicle came there wherein the officers were sitting but the registration number of the offending truck was not disclosed in the first information report which is said to be lodged immediately. In the cross-examination he further admitted that when he went to the residence of the deceased he did not disclose registration number of the offending Truck. Apart from that there was no other witness or evidence to establish that the offending Truck was involved in the accident.

From the perusal of the impugned Award, no illegality appears to be committed by the learned Tribunal in disbelieving the sole

eye witness. The Tribunal has also rightly held that the evidence of the eye witness is not liable to be believed inasmuch as the alleged pillion rider was never disclosed anywhere nor he was produced as a witness of case evidence.

In view of above facts and discussion, the Tribunal has rightly came to the conclusion that there is nothing on record to establish about the involvement of the offending Truck in the accident and thus rightly dismissed the claim petition.

In view of above facts and discussion, no illegality is reflected in the impugned Award. The appeal, thus being devoid of merits is liable to be dismissed and, accordingly, stands **dismissed**.

Order Date :- 5.6.2017

SFH