

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Miscellaneous Appeal No. 5248/2018

The New India Assurance Co. Ltd., Having Its Regional Office,
Nehru Palace, Malpura Tonk Road, Jaipur Through Its Constituted
Attorney.

----- Non-Claimant-Appellant

Versus

1. Asha Kanwar W/o Sagar Singh, Aged About 43 Years,
2. Sudarshan Singh S/o Sagar Singh, Aged About 23 Years,
All R/o Dewal, Tehsil Malpura, Police Station
Lambaharisingh, District Tonk, Raj.

Claimants-respondents

3. Narendra Singh S/o Jagmohan Singh, Aged About 29
Years, R/o Dangarthai, Tehsil Niwai, Police Station Niwai,
District Tonk.
(Driver Vehicle Tempo No. RJ-14-TB-4212).
4. Kailash Mehra S/o Ramphool, Aged About 42 Years, R/o
Plot No. 6155, Ganesh Mohalla, Ambedkar Nagar, Colony,
Sanganer, Police Station Sanganer, District Jaipur.
(Owner Vehicle Tempo No. RJ-14-TB-4212).

-----Non-Claimants-Respondents

Connected With

S.B. Civil Miscellaneous Appeal No. 5225/2018

The New India Assurance Co. Ltd., Having Its Regional Office,
Nehru Palace, Malpura Tonk Road, Jaipur Through Its Constituted
Attorney.

-----Appellant-Non-Claimant

Versus

1. Asha Kanwar W/o Sagar Singh, Aged About 43 Years.
2. Jitendra Singh S/o Sagar Singh, Aged About 26 Years.
3. Sudarshan Singh S/o Sagar Singh, Aged About 23 Years,
All R/o Dewal, Tehsil Malpura, Police Station
Lambaharisingh District Tonk, Raj.

Claimants-Respondents

4. Narendra Singh S/o Jagmohan Singh, Aged About 29
Years, R/o Dangarthai, Tehsil Niwai, Police Station Niwai,
District Tonk.

(Driver Vehicle Tempo No. RJ-14-TB-4212)

5. Kailash Mehra S/o Ramphool, Aged About 42 Years, R/o Plot No. 6155, Ganesh Mohalla, Ambedkar Nagar Colony, Sanganer, Police Station Sanganer, District Jaipur.
(Owner Vehicle Tempo No. RJ-14-TB-4212)

----Non-Claimants-Respondents

S.B. Civil Miscellaneous Appeal No. 5249/2018

The New India Assurance Co. Ltd., Having Its Regional Office, Nehru Palace, Malpura Tonk Road, Jaipur Through Its Constituted Attorney.

----Non-Claimant-Appellant

Versus

1. Tej Singh S/o Man Singh, R/o Garjeda, Police Station Diggi, Tehsil Malpura, Distt. Tonk (Raj.)

Claimant-Respondent

2. Narendra Singh S/o Jagmohan Singh, Aged About 29 Years, R/o Dangarthal, Tehsil Niwai, Police Station Niwai, District Tonk.

(Driver Vehicle Tempo No. RJ-14-TB-4212)

3. Kailash Mehra S/o Ramphool, Aged About 42 Years, R/o Plot No. 6155, Ganesh Mohalla, Ambedkar Nagar Colony, Sanganer, Police Station Sanganer, District Jaipur.
(Owner Tempo No. RJ-14-TB-4212).

----Non-Claimants-Respondents

S.B. Civil Miscellaneous Appeal No. 5250/2018

The New India Assurance Co. Ltd., Having Its Regional Office, Nehru Palace, Malpura Tonk Road, Jaipur Through Its Constituted Attorney.

----Appellant-Non-Claimant

Versus

1. Rajendra Singh S/o Ram Singh, Aged About 49 Years, R/o Denchwas, Police Station Diggi, Tehsil Malpura, Distt. Tonk (Raj.)

Claimant-Respondent

2. Narendra Singh S/o Jagmohan Singh, Aged About 29 Years, R/o Dangarthal, Tehsil Niwai, Police Station Niwai, District Tonk.

Driver Vehicle Tempo No. RJ-14-TB-4212

3. Kailash Mehra S/o Ramphool, Aged About 42 Years, R/o

Plot No. 6155, Ganesh Mohalla, Ambedkar Nagar Colony,
Sanganer, Police Station Sanganer, District Jaipur.
(Owner Tempo No. RJ-14-TB-4212)

-----Non-Claimants-Respondents

For Appellant(s) : Mr. Rishipal Agarwal, Adv.
For Respondent(s) : Mr. Avadesh Kumar Purohit, Adv.

HON'BLE MR. JUSTICE ANOOP KUMAR DHAND
Judgment

29/04/2022

All these appeals arise out of the common judgment hence same are being decided together by this common judgment.

These appeals arise out of the impugned judgment and award dated 26.07.2018 passed by the Court of Motor Accident Claims Tribunal, Malpura Tonk (for brevity 'the Tribunal') by which the claim petitions filed by the claimants-respondents have been allowed and the appellant-Insurance Company has been directed to pay the amount of compensation to the claimants-respondents on account of death of deceased persons in the accident which occurred on 17.04.2014.

Learned Tribunal after framing the issues, evaluating the evidence on record and hearing the counsel for the parties decided the claim petitions of the claimants awarding compensation to them under various heads.

Learned counsel for the appellant-Insurance Company submitted that immediately after the accident, FIR was lodged and in the FIR, the initial version of the informant was that the accident was caused by vehicle-Tavera Car No. RJ-14-TA-3342, but it appears that since the said vehicle was not insured, hence

subsequently a new vehicle i.e Tempo bearing No.RJ-14-TB-4212 was introduced to get the compensation.

Counsel further submits that the inspection of the Tavera Car was done after two days from the accident and site plan of the place of occurrence was prepared after 12 days of the accident.

He also submits that even in the cross-examination, the informant has admitted that he has mentioned the number of the Tavera Car but subsequently he changed his version and in the cross-examination submits that by mistake, he has mentioned the number of Tavera Car in FIR.

Lastly, he argued that the present case is fake claim of compensation and should be deprecated and instant case is a fit example. Instant case shows that the Tavera Car was not insured with the Insurance Company so he changed the vehicle for getting compensation i.e Tempo bearing No.RJ-14-TB-4212.

Per contra, learned counsel for the claimants-respondents opposed the arguments raised by the counsel for the appellant-Insurance Company and submitted that apart from informant, the other injured witnesses appeared in the witness-box and they have stated that the accident was caused by the driver of Tempo bearing No.RJ-14-TB-4212.

He further submitted that these witnesses are the injured witnesses who have sustained injuries in the said accident so there is no reason to disbelieve their testimony.

Counsel for the claimants also submits that the Insurance Company was having ample opportunity to prove evidence in this regard but no evidence was produced before the Tribunal in support of the contentions raised by the appellant-Insurance Company.

Learned counsel for the claimants have placed reliance on a judgment of Hon'ble Supreme Court delivered in the case of **Sunita and Ors. Vs. Rajasthan State Road Transport Corporation and Anr., reported in 2019 SCC Online SC 195**, wherein the Hon'ble Supreme Court has held that the claimants are entitled to get compensation even if the witnesses are not examined.

Herd counsel for the parties and perused the record.

Bare perusal of the statements of the witnesses namely, AW-1 Asha Kanwar, AW-2 Rajendra Singh, AW-3 Tej Singh and AW-4 Kiran Kanwar and the documents, which were exhibited on the record of the Tribunal, clearly indicates that the accident was caused by the driver of the tempo No.RJ-14-TB-4212 against whom charge-sheet was submitted by the Police after thorough investigation in the matter.

Apart from above, the appellant-Insurance Company has not submitted any cogent evidence before the Tribunal to prove that the accident was caused by the driver of Tavera Car No.RJ-14-TA-3342 so in absence of cogent evidence, it cannot be said and relied upon that the vehicle-Tavera Car was involved in the accident and the vehicle-Tempo-RJ-14-TB-4212 was introduced subsequently to get compensation. There is no merit in the arguments raised by the counsel for the appellant-Insurance Company, hence all the four appeals are found to be devoid of merits and the same are hereby dismissed.

A copy of this judgment be placed in these four connected appeals.

Stay application(s) and all Pending application(s) stand(s) dismissed, if any.

Registry is directed to send back the records of the Tribunal.

(ANOOP KUMAR DHAND),J

Pravesh/12-15

