

J.C.SHARMA &ORS. Appellants
Through : Mr. S.C. Jain, Adv.

versus

AMARJIT SINGH & ANR. Respondents
Through : Mr. Kanwal Choudhary, Adv.
for R-2.

CORAM :-
THE HON'BLE MR. JUSTICE J.R. MIDHA

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| 1. | Whether Reporters of Local papers may be allowed to see the Judgment? | YES |
| 2. | To be referred to the Reporter or not? | YES |
| 3. | Whether the judgment should be reported in the Digest? | YES |

JUDGMENT (Oral)

1. The appellants have challenged the award of the learned Tribunal whereby their claim petition was dismissed by the learned Tribunal.

2. The accident dated 29th March, 1986 resulted in the death of Ashok Kumar. The deceased was survived by his parents and minor brothers and sisters who filed the claim petition before the learned Tribunal.

3. The learned Tribunal dismissed the claim petition on the ground that the statement of the eye-witness J.C. Sharma, the father of the deceased does not inspire

confidence. The learned Tribunal observed that it is improbable that the father of the deceased would have been present at the site of the accident. No other eye-witness was examined by the learned Tribunal.

4. The learned counsel for the appellants submit that the accused was convicted by the Criminal Court. The learned counsel for the appellants has obtained the certified copy of the criminal case in which the accused was convicted. The learned counsel submits that the accident was duly proved in the criminal case. However, if the learned Tribunal was in doubt, the learned Tribunal could have summoned the Investigating Officer and the other witnesses shown in the criminal case.

5. It is well settled that the learned Tribunal has to conduct an inquiry under Section 168 of the Motor Vehicles Act, 1988 and the learned Tribunal can formulate such procedure as it thinks fit. However, the learned Tribunal has not conducted any inquiry in the present case. The learned Tribunal has not followed Sections 168 and 169 of the Motor Vehicles Act, 1988.

6. For the aforesaid reasons, the appeal is allowed and the impugned award is set aside. The case is remanded back to the learned Tribunal who shall conduct an inquiry and pass the award in accordance with law. The learned Tribunal shall also grant appropriate opportunity to the parties before passing the award.

7. The parties are directed to appear before the learned Tribunal on 1st December, 2009.
8. The LCR be returned forthwith.
9. Copy of this order be given 'Dasti' to learned counsel for the parties under the signature of Court Master.

J.R. MIDHA, J

OCTOBER 23, 2009

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