

Date of Decision: 11th November, 2009

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DHANPATI & ORS Appellants
 Through : Mr. Navneet Goyal and
 Mr. Varun Kumar, Advs.

versus

SUBHASH & ORS Respondents
 Through : Mr. Mohan Babu Aggarwal, Adv.
 for R-2.

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

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

JUDGMENT (Oral)

1. The appellants have challenged the award of the learned Tribunal whereby their claim petition was dismissed by the learned Tribunal on the ground that the owner of the offending vehicle could not be served.

2. The accident dated 1st November, 1995 resulted in the death of Chander Pal Singh. The deceased was survived by his widow, one son and two daughters who filed the claim petition before the learned Tribunal.

3. Section 168 of the Motor Vehicles Act provides that the learned Tribunal shall conduct an inquiry into the claim petition. Section 169 of the Motor Vehicles Act provides that the learned Tribunal shall follow such summary procedure as it may deem fit to conduct such an inquiry. The inquiry stipulated in Section 168 of the Motor Vehicles Act is different from the civil trial. Section 168 of the Motor Vehicles Act casts a duty on the learned Tribunal to conduct an inquiry in a meaningful manner. The object of the legislature behind making this provision is that the victims of road accident are not left at their own mercy. However, the learned Tribunal has not conducted any such inquiry in this matter and has dismissed the claim petition on technical grounds.

4. In the facts and circumstances of this case, the appeal is allowed and the impugned award of the learned Tribunal is set aside. The case is remanded back to the learned Tribunal who shall conduct a fresh inquiry under Sections 168 and 169 of the Motor Vehicles Act after giving adequate opportunities to both the parties. The learned Tribunal may summon the owner through the local police while conducting such an inquiry.

5. The parties are directed to appear before the learned Tribunal on 21st December, 2009.

6. The LCR be returned forthwith.

7. The learned counsel for respondent No.2 submits that in the event of claim petition being allowed, respondent No.2 should not be burdened with the interest for the period during which the appeal was pending before this Court.

8. Respondent No.2 shall raise this plea before the learned Tribunal who shall consider the same in accordance with law.

9. Copy of this order be given 'Dasti' to learned counsel for both the parties under signature of Court Master.

J.R. MIDHA, J

NOVEMBER 11, 2009

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