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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Order: April 20, 2010

+ MAC. APPEAL 330/2008
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20.04.2010

ANJANA SHARMA & ORS
Through: Nemo

...Appellants

Versus

ORIENTAL INSURANCE CO.
Through: Mr. S.L. Gupta, Adv.

...Respondents

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

ORAL

1. By the present appeal, the appellant has assailed the award dated 14th February, 2007 whereby the claim petition filed by the appellant claiming compensation under section 163A M.V. Act was dismissed.

2. Brief facts relevant for the purpose of deciding this appeal are that deceased Mohan Lal Sharma was owner of car bearing No. D1-8CV-5541. This car was hired by some persons for going to Ajmer and Mr. Mohan Lal Sharma himself took out the car on 13rd April, 2000. Whereabouts of Mohan Lal Sharma could not be traced till 20th April, 2000, so his wife lodged a complaint under section 365 of IPC with Shakarpur Police Station on that day. Later on, it was revealed that Mohan Lal Sharma was kidnapped and murdered by the passengers who had hired the car.

3. Wife of Mohan Lal Sharma filed a claim petition before MACT on the basis

that Mohan Lal Sharma had obtained an insurance policy which was alive at the time of the incident. The claim petition was opposed by the insurance company/respondent on the ground that Mohan Lal Sharma had not died in an accident involving the insured vehicle. He was owner of the vehicle and was himself driving the vehicle at the time of incident, so claim petition was not maintainable.

4. Before the trial court, the claimant wife examined herself as PW-1 and no other witness was examined. The learned Tribunal came to conclusion that FIR about kidnapping of Mohan Lal Sharma was lodged by his wife on 20th April, 2000 and later investigation revealed that Mohan Lal Sharma was murdered by the persons who had hired the car. The Tribunal observed that there were two reasons for denying the claim, one that deceased himself was owner of the car, and the second that the policy on the basis of which the claim petition was filed did not cover the risk to the life of owner. The car was a private car. It was insured for damage to the car and liability to the public and liability to the driver/workman. No premium was collected from Mohan Lal Sharma for the risk to the life of Mohan Lal Sharma or for the life of the owner of the vehicle. The claim petition was not in respect of third party and was not covered by the insurance policy.

5. The appeal has been preferred on the ground that death of Mohan Lal Sharma squarely falls within the words "death due to accident arising out of the use of Motor Vehicle" as mentioned in section 163 A (1) of the Act. It is stated that in the absence of definition of the word "accident" in Motor Vehicles Act, a liberal interpretation should be given to the word "accident" and the purpose under the policy should be enlarged to the victims of such an incident as happened in this case. It is stated that third party also included owner of the

vehicle and the Tribunal failed to appreciate that the vehicle was insured comprehensively at the relevant time.

6. I consider that the interpretation and meaning of word “accident” cannot be stretched to such an extent that it includes a murder. A person who is owner of the vehicle and is driving the vehicle may be murdered while driving the car or sitting in the car. Comprehensive insurance policy obtained by the car owner covering the risk of damage to the car on accident or covering risk to the third party involving the car in an accident would not cover the risk to the life of insurer at the hands of a murderer. I, therefore, find no force in this appeal. The appeal is therefore dismissed.

April 20, 2010
acm

SHIV NARAYAN DHINGRA J.