

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 1728 of 2004

Appellant :- Oriental Insurance Co Ltd

Respondent :- Smt. Pinki And Others

Counsel for Appellant :- Manish Goyal, Anubhav Sinha

Counsel for Respondent :- Om Prakash Rai, Aditya Singh Parihar, Dev Kaushik

Hon'ble Saral Srivastava, J.

1. Heard learned counsel for the appellant and learned counsel for the claimants-respondents.
2. The present appeal has been preferred by the appellant-Insurance Company challenging the award dated 09.04.2004 passed by the Motor Accident Claims Tribunal/Additional District Judge, Court No. 1, Ghaziabad (hereinafter referred to as 'Tribunal') in M.A.C. No. 584 of 2001.
3. Challenging the aforesaid award, learned counsel for the appellant-Insurance Company has contended that Tribunal has erred in law in entertaining the claim petition inasmuch as jurisdiction to entertain the claim petition was with Claims Tribunal Haryana, and therefore, the claim petition filed before the M.A.C.T. Ghaziabad was not maintainable. It is further contended that the Tribunal has erred in law in holding that the alleged accident had taken place by the offending vehicle Maruti Car No. DL-3C 2115. It is contended that F.I.R. was lodged against unknown vehicle, thus, it reflects that it is a case of false implication of vehicle, therefore, the Tribunal has erred in law in fixing the liability upon the appellant to pay compensation to the claimants/respondents.
4. Per contra, learned counsel for the claimants-respondents

would contend that the appellant-Insurance Company is carrying business at Ghaziabad also and therefore, the claim petition at Ghaziabad was maintainable. He further contended that the issue of jurisdiction was not pressed by the appellant-Insurance Company before the Tribunal and therefore, such issue cannot be raised for the first time in appeal. It is further contended that the claimants-respondents had produced P.W.2, who is said to be an eye witness of the accident, who has categorically deposed that the accident had taken place by the offending vehicle Maruti Car No. DL-3C 2115. It is contended that the documentary evidence on record has also corroborated the testimony of PW-2, therefore, the Tribunal has correctly held that accident had taken place by the offending vehicle Maruti Car No. DL-3C 2115.

5. This Court may note that the Insurance Company is carrying business at Ghaziabad also and, therefore, the claim petition was maintainable before the Motor Accident Claims Tribunal, Ghaziabad. In such view of the fact, this Court does not find any illegality in finding of Tribunal on the issue of jurisdiction.

6. Now, coming to the question of involvement of the vehicle, claimants-respondents had produced PW-2 who was an eye witness of accident and deposed before the Tribunal that the accident had taken place by the offending vehicle Maruti Car No. DL-3C 2115. The insurance company did not lead any evidence to rebut the testimony of P.W.2. The testimony of P.W-2 is also corroborated by other documentary evidences on record namely charge sheet filed by the police against the driver of the offending vehicle.

7. In such view of the fact, finding of the Tribunal on issue of involvement of vehicle is the finding of fact and counsel for the appellant could not point out any perversity in the finding of the

Tribunal, therefore, the submissions advanced by the learned counsel for the appellant is not sustainable and is accordingly, rejected.

8. Thus, for the reasons given above, the appeal lacks merit and is accordingly, ***dismissed*** with no order as to costs.

Order Date :- 12.10.2023

Vikram