

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 657 of 1998

Appellant :- Rajasthan State Road Transport

Respondent :- Smt. Kusum Lata And Others

Counsel for Appellant :- Samir Sharma(Senior Adv.),Ajay Kumar Srivastava

Counsel for Respondent :- Madhav Jain

Hon'ble Saral Srivastava,J.

1. Heard learned counsel for the appellant and learned counsel for the respondents.

2. The present appeal has been filed by appellant challenging the award dated 17.03.1998 passed by Motor Accident Claims Tribunal/IVth Additional District Judge, Agra in M.A.C. No.542/1993.

3. Challenging the award, learned counsel for the appellant has contended that it is a case of false implication of vehicle inasmuch as first information report with regard to alleged accident was lodged after five days against an unknown vehicle and in such view of the fact, the tribunal has erred in law in holding that the accident had taken place by offending vehicle No.RJ14P/0195.

4. Per contra, learned counsel for the respondents has contended that the claimant-respondent proved the accident by producing PW 2 Harishankar Sharma and PW 3 Arun Kumar who deposed that the accident had taken place by the offending vehicle. Accordingly, it is submitted that the

claimant-respondent proved that the accident had taken place by the offending vehicle.

5. Be that as it may, the claimant-respondents produced PW 2 and PW 3 as their witnesses and PW 2 and PW 3 in their testimony stated that the accident had taken place by the offending vehicle. Though, the appellant had produced DW 1 Kalyan Singh as driver of offending vehicle as a witness but the tribunal disbelieved the testimony of DW 1. In the opinion of the Court that the tribunal has rightly disbelieved the testimony of DW 1 who was driver of the appellant inasmuch as DW 1 being an employee of the appellant was not expected to give any testimony against the interest of the appellant. The claimant proved the accident by producing PW 2 and PW 3 and this Court has perused the finding of the tribunal on issue No.1 and finds that the finding returned by the tribunal on issue No.1 is based upon proper appreciation of testimony of PW 2 and PW 3. Thus, the finding of the tribunal on issue No.1 being finding of fact, does not call for any interference by this Court in its appellate jurisdiction.

6. Lastly, it is urged that the award of 12% interest is also excessive.

7. This Court is not inclined to accept the said submission inasmuch as the accident had taken place in the year 1993 and at that time, normal rate of interest was around 12%.

8. For the reasons given above, the appeal lacks merit and is **dismissed**.

Date :- 27.10.2023
SS