

**Court No. - 2**

**Case :-** FIRST APPEAL FROM ORDER No. - 133 of 2000

**Appellant :-** Oriental Insurance Co. Ltd.

**Respondent :-** Ganga Das And Others

**Counsel for Appellant :-** Kuldeep Shanker Amist

**Hon'ble Saral Srivastava,J.**

1. Heard learned counsel for the appellant.
2. The present appeal has been preferred by the appellant-insurance company challenging the award dated 28.10.1999 passed by the Motor Accident Claims Tribunal/Ind Additional District Judge, Ghaziabad (hereinafter referred to as 'Tribunal') in M.A.C.P. No.403 of 1997 whereby Tribunal has awarded Rs.95,000/- along with 12% interest as compensation to the claimants/respondents.
3. Challenging the aforesaid award, learned counsel for the appellant has contended that claimant was riding the Scooter No.D-7S-D-5023 which dashed with the stationary Tanker No.D.L.-IG-6782. It is submitted that the accident was the result of sole negligence of claimant, and therefore, Tribunal has erred in law in fixing the liability upon the appellant-insurance company to pay compensation.
4. Be that as it may, the Tribunal in holding the negligence of the driver of tanker, insured with the appellant-insurance company, relied upon the testimony of P.W.2, who was the eye witness of the accident and held that it is admitted by the P.W.2 that scooter dashed with the tanker from behind, therefore, it cannot be said that the accident was the result of sole negligence of driver of tanker, therefore, the Tribunal ought to have reduced the compensation to the extent of negligence of the deceased in the accident.
5. Though, the submission of learned counsel for the appellant in respect of negligence of claimant has substance, but the award is only Rs.95,000/- and Tribunal has not awarded any amount towards future prospect. In such view of the fact, this Court is not inclined to interfere with the finding of the Tribunal in respect of negligence.

6. Accordingly, the appeal lacks merit and is hereby ***dismissed*** with no order as to costs.

**Order Date :-** 16.10.2023  
Sattyarth