

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 960 of 2001

Appellant :- New India Assurance Co. Ltd. Etawah

Respondent :- Km. Neeta And Others

Counsel for Appellant :- Shishir Kumar,N.K. Srivastava

Counsel for Respondent :- R.K.Porwal,R.K. Porwal,Radhey Shyam

With

Case :- FIRST APPEAL FROM ORDER No. - 962 of 2001

Appellant :- New India Assurance Co. Ltd. Etawah

Respondent :- Avneesh Kumar Yadav And Another

Counsel for Appellant :- Shishir Kumar,Nagendra Kumar Srivastava

Counsel for Respondent :- Rakesh Kumar Porwal,Radhey Shyam,Rakesh Kumar Porwal

Hon'ble Saral Srivastava,J.

1. Heard learned counsel for the appellant.
2. Since, these two appeals are arising out of same accident and involves common issues, therefore, both the appeals are decided together with this common judgement.
3. Both the appeals i.e. F.A.F.O. No.960 of 2001 and F.A.F.O. No.962 of 2001 have been filed by the appellant-insurance company challenging the award dated 21.04.2001 passed by Motor Accident Claims Tribunal/Vth A.D.J., Etawah in M.A.C. No.353/2000 and M.A.C. No.352/2000 respectively.
4. Challenging the award, learned counsel for the appellant contended that it is a case of false implication of offending vehicle i.e. Jeep No.U.H.K.-2339 inasmuch as the owner has stated that

the offending vehicle was not present on the place of accident on the date of accident. It is further contended that there was delayed FIR in respect to the alleged accident, and thus, it is submitted that there was ample evidence on record that it was a case of false implication of offending vehicle. It is further submitted that the compensation awarded by the Tribunal is also excessive and is not sustainable in law.

5. Be that as it may, the Tribunal in concluding that the accident had taken place by offending vehicle has placed reliance upon testimony of eyewitness PW-1 Ramchandra. The police has filed charge-sheet against the driver of the offending vehicle, thus, the testimony of eyewitness is corroborated by the other documentary evidence on record. The insurance company did not lead any evidence to prove that it was a case of false implication of vehicle. Since the insurance company did not lead any evidence in rebuttal to the testimony of PW-1, therefore, finding of the Tribunal on the involvement of vehicle is finding of fact based upon the proper appreciation of evidence on record and is not liable to be interfered with. So far as the issue of quantification of compensation in both the appeals is concerned, this Court may note that the Tribunal has not awarded any amount towards future prospect, and therefore, this Court is not inclined to interfere with the quantification of the compensation.

6. For the reasons given above, both the appeals lack merit and are accordingly ***dismissed***.

Order Date :- 17.10.2023
R.S. Tiwari