

Court No. - 19

Case :- FIRST APPEAL FROM ORDER No. - 182 of 2000

Appellant :- Commissioner Trade Tax Lucknow

Respondent :- Devi Prasad

Counsel for Appellant :- C.S.C.

Counsel for Respondent :- Rakesh Chandra Tiwari

Hon'ble Jaspreet Singh,J.

1. Shri Devendra Mohan Shukla, learned Standing Counsel for the State-appellant. None has put in appearance on behalf of the claimants though name of Shri Rakesh Chandra Tiwari is shown as counsel for the claimant/respondent in the additional cause list.

2. The instant appeal has been preferred against the order dated 22.12.1999 in C.P. No. 27 of 1995 wherein the interim award in terms of Section 140 of Motor Vehicles Act, 1988 was passed directing the appellant to pay the same to the claimants respondents.

3. It is the case of the appellant that the alleged accident for which C.P. No. 27 of 1995 was filed alleging the death of one Arvind Kumar in a motor accident, which occurred with Vehicle bearing No. UP32 G 2716, which resulted in the death of Arvind Kumar and Rs.50,000/- was awarded in terms of Section 140 of Motor Vehicles Act, 1988 is per-se bad for the reason that the said vehicle was never involved in the accident.

4. It is in the aforesaid backdrop that the appellant had filed the instant appeal and this Court by means of order dated 27.3.2000 had stayed the operation of impugned order dated 22.12.1999. It has further been submitted that by learned Standing Counsel for the State-appellant that the claimant themselves had moved an

application before the tribunal indicating that accident did not occur with the vehicle bearing no. UP32 G 2716 and inspite thereof it did not press its claim petition, which was noticed by the tribunal and by means of award dated 22.8.2000 passed by MACT/IIIrd Additional District Judge, Gonda, the C.P. No. 27 of 1995 was dismissed as not pressed. A copy of the order/award dated 22.8.2000 has been placed on record along with affidavit of Shri Sameer Kumar Srivastava, Assistant Commissioner (Administration) State Tax dated 27.9.2023.

5. In view of the aforesaid, once the claimants have not pressed their claim petition before the tribunal with a clear averments absolving the involvement of the vehicle owned by the appellant bearing no. UP32 G 2716, the instant appeal also deserved to be allowed.

6. Accordingly, the order impugned dated 22.12.1999 shall stand set aside as the claim petition itself stands dismissed. This fact stands corroborated upon perusing the original record of the tribunal, which is available before the Court.

7. In view of the aforesaid, the appeal is disposed of in the aforesaid terms.

8. The record of the tribunal shall be returned forthwith. Any amount, if any, deposited by the appellant before this Court shall be released in favour of the appellant/State.

Order Date :- 13.10.2023
Virendra