

Court No. - 20

Case :- FIRST APPEAL FROM ORDER No. - 353 of 2017

Appellant :- National Insurance Co. Ltd. Lucknow Thru. Its Manager

Respondent :- Manish Misra And 2 Others

Counsel for Appellant :- Tarun Kumar Misra

Counsel for Respondent :- Ripu Daman Shahi, I.M. Pandey
Ist, Mohd. Shamshad Khan

Hon'ble Manjive Shukla, J.

1. Heard Sri Tarun Kumar Misra, learned counsel appearing for the appellant and Sri R.D. Shahi, learned counsel appearing for the Respondent No. 1-claimant.
2. It is admitted to the learned counsels appearing for both the parties that notice of this appeal has already been served on Respondent No. 2 i.e. owner of the vehicle in question.
3. No one is present on behalf of Respondent No. 2.
4. Appellant through this first appeal has challenged the order/award dated 21.03.2017 passed by learned Motor Accident Claims Tribunal/Special Judge, Prevention of Corruption Act, Court No. 1, Lucknow in Claim Petition No. 0100441 of 2013 whereby an amount of Rs. 2,77,414/- has been awarded in favour of the claimants.
5. Learned counsel appearing for the appellant has raised a legal issue in this appeal and has submitted that the driver of the vehicle was in possession of driving license which was meant for 'light goods vehicle' whereas the vehicle, subject matter of the accident, was a 'heavy goods vehicle', therefore, the Motor Accident Claims Tribunal while awarding amount of Rs. 2,77,414/- against appellant-insurance company has in-fact erred in law and has not appreciated the evidence on record.
6. Learned counsel appearing for the appellant has further submitted that once registration certificate of the vehicle in question was filed before the Motor Accident Claims Tribunal in which vehicle has been shown to be 'heavy goods vehicle', there was no occasion for the Motor Accident Claims Tribunal to take a different view.
7. Learned counsel appearing for the appellant has confined his

prayer in this appeal only to the extent that appellant may be given right to recovery of awarded amount from the owner of the vehicle.

8. Sri R.D. Shahi, learned counsel appearing for the Respondent No. 1-claimant submits that if the appellant is confining his relief only to the extent of right of recovery from the owner of the offending vehicle, he does not have any objection.

9. In view of the aforesaid submissions made by the learned counsels for the parties, this First Appeal From Order is dismissed. However appellant is given right of recovery of awarded amount from the owner of the offending vehicle if he can establish his case for the said recovery.

10. Statutory amount of Rs. 25,000/- deposited at the time of institution of this first appeal may be remitted to the Motor Accident Claims Tribunal for being released in favour of the claimant.

11. It is also provided that the amount deposited before the Motor Accident Claims Tribunal shall immediately be released in favour of the claimants.

Order Date :- 13.3.2024/A. Mandhani