

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 945 of 2013

Order reserved on 05.09.2019

Order pronounced on 19.12.2019

1. Smt. Numan Sahu, W/o Kedar Ram Sahu, aged about 39 years,
2. Kedarram Sahu, S/o Punuram Sahu, aged about 41 years,
3. Ku. Chupeshwari, D/o Kedarram Sahu, aged about 15 years minor,
4. Ku. Rima, D/o Kedar Sahu, aged about 12 years, Minor

Appellants No. 3 and 4 are minor, through natural guardian mother Smt. Numan Sahu, W/o Kedar Ram Sahu,

All resident of Village Hanchalpur, Post Korra, P.S. Bhakhara, Tahsil Kurud, District Dhamtari, CG.

---- Appellants

Versus

1. Girdhari Lal Sahu, S/o Kartikram Sahu, aged about 30 years, R/o Village Hanchalpur, Post Korra, P.S. Bhakhara, Tahsil Kurud, District Dhamtari, C.G.
2. Smt. Yogmaya Sahu, W/o Sohanlal Sahu, R/o Village Hanchalpur, Post Korra, P.S. Bhakhara, Tahsil Kurud, District Dhamtari, C.G.
3. United India Insurance Company Limited, Through : Branch Manager, Branch Office – In front of Shandilya Marbal, Devshri Talkies Road, Dhamtari, Tahsil and District Dhamtari, C.G.

--- Respondents

For Appellant/s : Mr. Rajkumar Pali and Mr. Amit Sahu,
Advocate

For Respondent/s : Mr. Sumit Shrivastava, Advocate

Hon'ble Smt. Justice Vimla Singh Kapoor

C.A.V. Order

The Claimants/Appellants have preferred this present appeal challenging the judgment and award dated 24.07.2013, whereby the claim petition of the appellants has been dismissed by the Tribunal holding that claimants have failed to prove that deceased Domanlal had died in an accident with tractor No. C.G. 05 G 0343 and trolley No. C.G. 05 G 0344.

2. The Claim petition was instituted by the claimants – appellants alleging in that on 27.05.2012, one Domanlal was working as labour (Coolie) on the tractor No. C.G. 05 G 0343 and trolley No. C.G. 05 G 0344

had gone along with the driver of the tractor to bring sand from Devpur. When the tractor after loading the same from Devpur, returning back to Village Korra, at about 07.45 p.m. on the way when the ill fated tractor and trolley reached near limitara Parevadeeh road, met with an accident due to rash and negligent driving of the tractor by Respondent No.1. It is alleged that Respondent No.1 had drive the vehicle rashly and negligently on the uneven road, due to which, deceased Doman fell down from the tractor trolley and died on the spot. In the aforesaid background, claimants/appellants prayed for compensation of total sum of Rs.8,50,000/-.

3. The Respondents No.1 and 2 filing their reply, have denied the liability on the plea that the vehicle was insured with the Respondent No.3/Insurance Company.

4. The Respondent No.3/Insurance Company prayed for dismissal of the claim petition.

5. The Claim Tribunal on the basis of the pleadings between the parties framed as many as five issues. The Tribunal framed issue No. 1 and 2 with regard to the involvement of the tractor trolley in the accident and also the negligence of its driver.

6. The Claim Tribunal after appreciating the evidence on record held that the claimant had failed to prove that the alleged accident had taken place by tractor trolley.

7. Learned counsel for the appellants – claimants submits that as per the FIR and charge sheet, the offence was registered under Section 304 (A) of the I.P.C. against the non-applicants. It is evident that Respondent No.1 was riding the offending vehicle in a rash and negligent manner. The Tribunal without considering the evidence available on record in its proper perspective dismissed the claim petition.

8. Heard learned counsel for the appellants and perused the material available on record including the impugned award.

9. In the case the FIR (Ex-P-3) was lodged by the D.W.3, eye witness on 27.05.2012. Though charge sheet was filed against non-applicant Girdhari, the statements of the witnesses in the said Criminal Case have also been filed by the non-applicants before the Tribunal as Ex-D-8 to Ex-D-10.

10. As per judgment dated 13.10.2012 of the Chief Judicial Magistrate, Dhamtari, the prosecution has miserably failed to prove its case against the accused/non-applicant No.1.

11. The Tribunal in its award from paras 6 to 13 has exhaustively considered the entire evidence adduced by the respective parties including the evidence adduced in the criminal case and the judgment of acquittal of the non-applicant by the trial Court and recorded a finding that there is nothing on record, which could show that the accident took place by the tractor, which was driven by Respondent No.1/Girdhari. In view of the nature and quality of evidence available on record as well as the conduct of the claimants, this Court finds no illegality or perversity in the findings recorded by the Tribunal dismissing the claim petition.

12. In the result, the appeal being without any substance is liable to be dismissed and is hereby dismissed.

There shall be no order as to costs.

Sd/-

(Vimla Singh Kapoor)
Judge