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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 12.10.2023

+ **MAC.APP. 564/2017**

MANJU CHAUHAN & ORS Appellants

Through: Mr. Navneet Goyal, Advocate.

versus

DEEPAK KUMAR VIMAL & ORS (THE NEW INDIA
ASSURANCE CO LTD) Respondents

Through: Mr. S.N. Parashar, Advocate for R-1
and 2.

Mr. Rahul Saxena, Advocate for R-3.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

1. This appeal has been filed challenging the Award dated 11.04.2017 passed by the learned Motor Accidents Claims Tribunal, Shahdara District, Karkardooma Courts, Delhi (hereinafter referred to as the 'Tribunal') in MAC Petition No. 198/2014 titled ***Manju Chauhan & Ors. v. Deepak Kumar Vimal & Ors..***

2. It was the case of the claimants/appellants herein before the learned Tribunal that on 03.06.2014 at 3:00 PM the deceased, Sh.Sanjeev Kumar, along with Harsh Bedi and Updesh, was travelling in a Honda City Car bearing no. UP-14R-8820. As they reached at Falouda Border, District Muzaffar Nagar, Uttar Pradesh, a Maruti Alto car bearing Registration No. DL-3C-AZ-6056 being driven by



the respondent No. 1 herein came from the side of Meerut at a high speed, in a rash and negligent manner. The Alto car hit the Honda City car in which the deceased was travelling, as a result whereof, the Honda City car fell down into a ditch on the side of the road. The deceased sustained fatal injuries in the accident.

3. The claim petition was filed claiming compensation for the death of the deceased as a result of the motor vehicle accident.

4. In the claim petition, the appellants impleaded only the driver, owner and the insurance company of the Alto car, as it was their case that the accident had taken place as the Alto car was being driven in a rash and negligent manner by the respondent No. 1 herein.

5. In support of their case, the claimants examined Sh. Vikram Singh (PW-2) as an eye-witness of the accident. He stated that he was going with one Sh. Manoj Kumar from Haridwar to Muzzaffar Nagar in a vehicle bearing Registration No. UK-08AE-4262, while the Honda City car was going ahead of them. As they reached near Falouda Border, he saw the Alto car coming from the Meerut side at a high speed and hitting the Honda City car due to which the Honda City car overturned and fell in the ditch by the side of the road.

6. In the course of his cross-examination, however, he admitted that he is the brother-in-law of the deceased. In his cross-examination, he could neither give the number of the car in which the deceased was travelling nor could he give the name of the person who was driving that car. However, he could remember the colour and the number of the Alto car. A suggestion was also put to him that his statement was recorded by the police only with respect to the identification of the



body and, therefore, he could not state about the mode and manner of the accident.

7. On the other hand, the respondent No. 1 appeared as a witness before the learned Tribunal. He stated that on the date of the accident, he along with his family members was going to Haridwar from Ghaziabad in the Alto car. He stated that he was driving at a normal speed and on the correct side of the road when suddenly the Honda City car, being driven at a high speed and in a rash and negligent manner, after changing its driving lane, came from the wrong side and hit the Alto car with great force resulting in the Honda City car losing its balance and falling down in the ditch. He further stated that the police had earlier registered the FIR bearing no. 168/2014 at Police Station Purkazi Sadar, District Muzaffar Nagar, Uttar Pradesh against the driver of the Honda City car, who, however, later falsely implicated the respondent No. 1 in the FIR.

8. In his cross-examination, he stated that against his false implication in the FIR, he made a complaint to the Director General of Police and the Inspector General of Police. He produced a copy of the said complaint before the learned Tribunal.

9. The learned Tribunal, on appreciation of the evidence led before it, found the testimony of the respondent No. 1 to be reliable as against PW-2 and, therefore, concluded that the appellants had been unable to prove that the accident had taken place with the Alto car being driven in a rash and negligent manner.

10. The learned counsel for the appellants submits that as the accident had taken place with the abovementioned two vehicles



colliding, and with the learned Tribunal having come to the conclusion that the Alto car was not being driven in a rash and negligent manner, the appellants should have been granted an opportunity to implead the driver, owner and the insurance company of the Honda City car in which the deceased was travelling at the time of the accident as respondents to the claim petition, so as to avoid any contradictory findings by the learned Tribunal in case the appellants were to institute a fresh claim petition against the said driver, owner or the insurance company.

11. The learned counsel for the respondents do not oppose the prayer made.

12. Having considered the record of the case as also having heard the learned counsels for the parties, it is apparent that the deceased lost his life as a result of a motor vehicle accident with the two cars, that is, the Honda City car and the Alto car, colliding with each other. The learned Tribunal, on the basis of the evidence led before it, has concluded that the appellants have been unable to prove that the Alto car was being driven in a rash and negligent manner at the time of the accident by the respondent No. 1. In arriving at this conclusion, the learned Tribunal has accepted the version of the respondent No. 1 that the accident took place with the Honda City car changing its lane and coming on the wrong side and, thereafter, hitting the Alto car. The said findings would cause prejudice to the driver, owner and the insurance company of the Honda City car.

13. In my opinion, once the learned Tribunal was arriving at the above conclusion, it should have given an opportunity to the



Claimants to implead the driver, owner and the insurance company of the Honda City car, in case they so choose.

14. In terms of Section 168 of the Motor Vehicles Act, 1988, the learned Tribunal is to hold an inquiry into the claim and make an award of compensation, which appears to be just, and to also specify the person or persons to whom the compensation shall be paid. The learned Tribunal is also to specify the amount which shall be paid by the insurer or owner or driver 'of the vehicle involved in the accident or by all or any of them'. In the present case, as there were two vehicles involved in the accident and the learned Tribunal has held that the driver of one of the vehicles, that is, the Alto Car, is not responsible for causing the accident, the learned Tribunal, before concluding that the accident was caused due to the negligence of the driver of the Honda City car, should have directed impleadment of the driver, the owner and the insurance company, if any, of the Honda City Car.

15. It cannot be doubted that as the deceased was travelling in a motor vehicle which met with an accident resulting in his death, the appellants would be entitled to compensation that is just. The only question would be from whom and of what amount. In the facts of the present case, the same can now be determined only with the impleadment of the driver, owner and the insurance company of the Honda City car. The claim petition is remanded back to the learned Tribunal for holding a further inquiry into the accident in question, in terms of Section 168 of the Act. On the oral prayer of the learned counsel for the appellants, they are impleaded as party respondents in



the claim petition.

16. It is made clear that this Court has not expressed any opinion on the Honda City car being driven in a rash and negligent manner and resulting in the accident. The defence of the driver, owner and the insurance company of the Honda City car shall remain fully open before the learned Tribunal.

17. Parties shall appear before the learned Tribunal on 21.11.2023, whereupon, the learned Tribunal shall issue notice to the driver, owner and the insurance company of the Honda City car on requisite particulars being provided by the appellants.

18. The Trial Court Record be also returned back to the learned Tribunal.

19. The appeal is disposed of in the above terms.

NAVIN CHAWLA, J

OCTOBER 12, 2023/MR/AS