

NATIONAL LOK ADALAT

502-1 **FAO-3779-2009** **(2024:PHHC:036359)**

SUDESH KUMAR
V/S
OMPATI AND ORS.

502-2 **FAO-3548-2009** **(2024:PHHC:036362)**

OMPATI AND ORS.
V/S
MAHENDER SINGH AND ORS

Present: Mr. S.P. Garg, Advocate
for the appellants in FAO-3779-2009.

None for the appellants in FAO-3548-2009.

Mr. Nigam Bhardwaj, Advocate and
Mr. Sunny, Advocate for the respondent-
ICICI Lombard General Insurance Company.

Both the abovementioned appeal have arisen out of same Award dated 28.02.2009 passed by the learned Motor Accident Claims Tribunal, Kurukshetra in MACT Case No.118 of 2007 titled as 'Ompati and others Versus Mahender Singh and others'.

FAO No.3548 of 2009 has been filed by the claimants whereas FAO No.3779-2009 has been filed by the owner of the registered vehicle i.e. Bolero bearing Registration No.HR-37B-8507. The appeals emanated from an incident that had taken place on 18.04.2007. Rattan Lal, since deceased, was going to village Satdana (Punjab) in the abovesaid registered vehicle alongwith Baljit Singh son of Ram Parsad, Jiylal son of Shankar and Rajinder Kumar son of Prabhu Ram to attend a Bhog Ceremony. When the said vehicle reached near village Keodak on Ambala-Kaithal Road, suddenly a cyclist came on the road in front of their vehicle and in order to save the said cyclist, the driver of Bolero

swerved the vehicle and lost control over the same and fell into the ditches on the side of the road. Consequently, Rattan Lal died on the spot and other occupants received injuries. A DDR No.6 dated 18.04.2007 was also registered in this regard at Police Post Keodak, Police Station Sadar Kaithal.

A claim petition was filed by the LRs of Rattan Lal.

Upon consideration of the evidences led by the parties, the Motor Accident Claims Tribunal, Kurukshetra awarded an amount of Rs.1,92,000/- alongwith Rs.10,000/- towards funeral expenses. Hence, a total amount of Rs.2,02,000/- alongwith interest @ 9% per annum was awarded from the date of filing of the claim petition till its realization. The above amount was ordered to be paid by Sudesh Kumar, the registered owner of the vehicle in question. Aggrieved of the liability being fastened against the owner, the FAO No.3779 of 2009 has been preferred by Sudesh Kumar claiming that the vehicle in question was financed by Mahindra and Mahindra Finance Company and was insured by ICICI Lombard General Insurance Company.

Counsel for the registered owner has placed on record a Panchayati Rajinama (settlement deed) dated 01.03.2011 executed between the registered owner as well as the claimants/appellants in FAO No.3548 of 2009. Execution of the aforesaid Panchayati Rajinama is verified by the registered owner, Sudesh, who is present in Court today alongwith Sarpanch namely Pritam Singh (identified by Shri S.P. Garg, Advocate for the claimant, Sudesh Kumar in FAO No.3779-2009). He further submits that as per the abovesaid Panchayati Rajinama dated 01.03.2011, the registered owner has paid a sum of Rs.1,50,000/- towards full and final settlement in favour of the claimants-appellants, Ompati and others and they have further undertaken not to pursue

any litigation or raise any fresh claim against the said incident. The said statement is also verified by the claimant Sudesh Kumar and Sarpanch Pritam Singh, who are present today in Court. The copy of Panchayati Rajinama dated 01.03.2011 attested by Mr. S.P. Garg, Advocate as well as the self attested copy of Aadhar Card of Sudesh Kumar have been taken on record today.

A settlement has now been arrived at between the registered owner Sudesh Kumar and the Insurance Company, as per which, the Insurance Company has agreed to pay a lump sum amount of Rs.3,00,000/- to be deposited with the Motor Accident Claims Tribunal, Kurukshetra within a period of 45 days from today. It is further submitted on behalf of the Insurance Company that in the event any defect is found in the abovesaid Panchayati Rajinama placed on record by Sudesh Kumar to have been executed between him and the appellants-claimants, Ompati and others, the appellant-registered owner Sudesh Kumar will be liable for any additional liability. Counsel for appellant-registered owner, Sudesh Kumar further prays that the amount of Rs.3,00,000/-, to be deposited by the Insurance Company with the Motor Accident Claims Tribunal, Kurukshetra/Executing Court, may be ordered to be released by the said Court in accordance with law.

The counsel for the respondent-Insurance Company has no objection the same.

It is also noticed that there is no representation on behalf of the appellants in FAO No.3548 of 2009 to either admit or dispute/deny the Panchayati Rajinama/settlement. The copy of the said settlement duly attested by Mr. S.P. Garg, Advocate has been taken on record as Mark-A and the original has been returned to him enabling him to establish his claim/defence in

the event of any claim/dispute is raised by the claimants-appellants Ompati and others at any later point of time.

FAO No.3779 of 2009 is, accordingly, disposed of in terms as aforesaid.

The settled amount of Rs.3,00,000/- be deposited by the respondent-Insurance Company with the Motor Accident Claims Tribunal, Kurukshetra/Executing Court within a period of 45 days from today and the Court concerned is also directed to disburse the said amount in accordance with law.

Further, in view of the statement made above by learned counsel for the appellant-registered owner, Sudesh Kumar (in FAO-3779-2009), the appeal bearing No.FAO-3548-2009 is also disposed of at this stage, with liberty to the claimants-appellants, Ompati etc. to seek revival of the said appeal in case the abovesaid Panchayati Rajinama/settlement is found to be factually incorrect.

Photocopy of this order be placed on the file of another connected case.

**(VINOD S. BHARDWAJ)
PRESIDENT**

**(G.S. PUNIA, SR. ADVOCATE)
MEMBER**

MARCH 09, 2024.
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