



2024:DHC:10175



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

% ***Date of Decision: 16th December 2024***

+ **MAC.APP. 578/2024, CM APPL. 64762-64763/2024**

SATISH

S/o. SH. JAI NARAYAN

.....Appellant

Through: Mr. Mohit Kumar, Advocate.

versus

1. VINEET

S/O. SH. SATBIR

.....Respondent No.1.

2. FUTURE GENERALI INSURANCE COMPANY

Office at :

IInd FLOOR, SECTOR 4-5, SECTOR 8C

MADHYA MARG, CHANDIGARH

Also at:

KAILASH BUILDING, 3RD FLOOR,

303-310-26, K.G.MARG, CP

NEW DELHI

.....Respondent No.2.

Through: None

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G E M E N T (Oral)

1. The Appeal under Section 173 of the *Motor Vehicles Act, 1988* ('M.V. Act', *hereinafter*) has been filed on behalf of the Owner/Appellant against the Award dated 07.05.2024, *vide* which the compensation in the sum of Rs.1,00,252/- along with the interest @9% p.a., has been granted, on

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account of injuries suffered by the Respondent No. 1/Mr. Vineet, aged about 17 years, in a road accident on 18.01.2021, to challenge the recovery rights granted to the Insurance Company, against the Appellant/ Owner of the offending vehicle.

2. **It is submitted on behalf of the Appellant-Satish** that there was *no breach of any of the terms of the Insurance Policy* as the driver was holding a valid license and the vehicle was duly insured. However, the learned Tribunal has given recovery rights against the Owner, to the Insurance Company, without any reason whatsoever, without specifying any grounds while granting recovery rights to the Insurance Company.

3. Despite service, none has appeared on behalf of the Insurance Company.

4. **Submissions heard.**

5. *Briefly stated*, on 18.01.2021, at about 07.10 pm, the Respondent No. 1/Vineet, being pillion rider, was travelling on the Motorcycle bearing No. DL-SSAQ- 2455-being driven by Akshay from Qutub Garh towards Kanjhawla Road, Delhi. When they reached near the Cut in front of Bhan Farm, Village Tatesar, Delhi, a Tourist bus bearing No. HR63E8720 driven by driver Pardeep Kumar in a zig-zag manner and without blowing any horn, and was plying parallel to them on left side, suddenly took a U-Turn on the right side of the road and hit the motorcycle of Respondent No. 1 and he and his friend fell and sustained grievous injuries.

6. FIR No. 28/2021 was registered for offences punishable under Section 279/338 of *Indian Penal Code, 1860*, PS Kanjhawala, Delhi.



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7. *Petition under Section 166 and 140 of the M.V. Act was filed by the Claimants seeking compensation for the injuries sustained by him in the accident.*

8. The ***sole ground of challenge*** against the impugned Award by the Appellant/Owner is that the learned Tribunal has given *Recovery Rights to the Respondent No. 2/Insurance Company* against him without giving any reason, which is liable to be set aside.

9. The Ld. Tribunal in the impugned Award while observing that Respondent No.2/Insurance Company was liable to indemnify Appellant/Owner and Respondent No.1/ Driver of the offending vehicle, but granted Recovery Rights.

10. Pertinently, Respondent No.2/Insurance Company in their *Written statement* before the Ld. Tribunal admitted that the offending vehicle was insured with them and Appellant was carrying a valid license at the time of the accident. Evidently, no reason has been given for grant of Recovery Rights against the Owner; no violation of any terms of the Insurance policy has been claimed or proved by the Insurance Company.

11. *Therefore, Ld. Tribunal has erred in granting Recovery Rights to Respondent No. 2/Insurance Company against the Appellant which is hereby set aside, to that extent.*

12. Appeal is accordingly, allowed.

13. The Appeal stands disposed of along with the pending Application(s), if any.



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(NEENA BANSAL KRISHNA)
JUDGE

DECEMBER 16, 2024/RS

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