



2026:AHC:173299

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL FROM ORDER No. - 111 of 2005

The Oriental Insurance Company Ltd.

.....Appellant(s)

Versus

Rajkumar And Others

.....Respondent(s)

Counsel for Appellant(s)	:	Sushil Kumar Mehrotra, S.K. Mehrotra
Counsel for Respondent(s)	:	Deep Chand Singh

Court No. - 54

HON'BLE ANIL KUMAR-X, J.

1. Shri S.K. Mehrotra, learned counsel for the appellant-Insurance Company is present. However, none has appeared on behalf of the respondents.

2. This appeal has been filed on behalf of the appellant-Insurance Company with a prayer to set aside the impugned judgment and award dated 8.10.2004 passed by Motor Accident Claims Tribunal, Deoria in M.A.C.P. No.77 of 2002 (Rajkumar & Anr. vs. Shri Ramnaksashtra & Anr.) whereby compensation of Rs.1,52,000/- has been awarded to the claimants alongwith interest at the rate of 6% per annum.

3. Learned counsel for the appellant submits that the finding recorded by the learned Tribunal regarding involvement of the offending tractor and its driver is not based on proper appreciation of the evidence on record. It is submitted that an FIR in Case Crime No. 45 of 2002, under Sections 279 and 304-A IPC, was lodged by Vridhi Chand Yadav in respect of the accident dated 04.02.2002. In the FIR, the informant clearly stated that his nephew Nagendra was proceeding towards his school when tractor No. P.B. 12-A/9156, being driven rashly and negligently, hit him from behind, resulting in his immediate death. More importantly, the informant specifically named Ramesh as the driver of the tractor. On the basis of the said FIR, investigation was conducted and a charge-sheet was submitted against Ramesh. Learned counsel submits that the aforesaid evidence creates a serious contradiction regarding the identity of the driver. During the claim proceedings, the owner of the tractor appeared and took a specific stand in his written statement that Gopal, and not Ramesh, was

driving the tractor at the time of the accident. The owner also produced the driving licence of Gopal, which was relied upon by the learned Tribunal.

4. It is argued on behalf of the appellant that the learned Tribunal could not have relied upon the driving licence of Gopal merely because the owner produced it. The said document may establish that Gopal possessed a driving licence, but it does not, by itself, establish that Gopal was actually driving the tractor at the time of the accident. The contemporaneous FIR and charge-sheet, which specifically named Ramesh as the driver, materially contradict the owner's subsequent assertion before the Tribunal that Gopal was driving. It is further submitted that the claimants were required to establish the involvement of the offending vehicle and the circumstances of the accident by reliable evidence. The contradiction regarding the identity of the driver goes to the root of the case, particularly when the criminal proceedings had proceeded against Ramesh whereas, before the Tribunal, the owner introduced Gopal as the driver.

5. Learned counsel, therefore, submits that the learned Tribunal failed to properly appreciate this material contradiction and wrongly accepted the version subsequently taken by the owner. The finding that the accident was caused by the tractor in question due to the negligence of its driver is, therefore, liable to be set aside. Consequently, the award passed against the appellant-Insurance Company also deserves to be set aside. It was lastly submitted that, if the involvement of the tractor is accepted, the liability of the Insurance Company could not have been fastened without first recording a clear finding as to who was driving the tractor at the relevant time and whether such person possessed a valid and effective driving licence.

6. I have considered the submissions of learned counsel for the appellant and perused the impugned judgment.

7. The first question raised by learned counsel for the appellant relates to the identity of the driver of the offending tractor. It is true that an FIR in Case Crime No. 45 of 2002 was lodged by Vridhi Chand Yadav, uncle of the deceased Nagendra, wherein it was stated that the accident occurred

due to rash and negligent driving of tractor No. P.B. 12-A/9156 and that its driver was Ramesh. A charge-sheet was thereafter submitted against Ramesh.

8. However, the fact that the informant named Ramesh in the FIR has to be examined in the light of his own position and the other evidence on record. The informant was the uncle of the deceased. He has not stated in the written report that he was present at the place of occurrence or that he himself had seen the accident. He has also not stated that the driver was apprehended at the spot. Rather, the written report refers to other persons as witnesses of the occurrence. This circumstance indicates that the informant himself was not an eye-witness to the accident and that the name of the driver mentioned in the FIR was not based upon his personal observation at the spot. It is significant to note that he even had not been produced before Tribunal.

9. Out of the persons named as witnesses in the written report, Madan Prasad Chauhan was examined. His statement is also of limited assistance on the question of identity of the driver. He merely stated that the accident occurred due to rash and negligent driving of the offending vehicle. He neither disclosed the name of the driver nor stated that the driver was apprehended at the spot. Thus, there is no direct ocular evidence on record establishing that Ramesh was driving the tractor at the relevant time. The fact that the charge-sheet was submitted against Ramesh cannot, by itself, conclude the issue. A charge-sheet is not substantive evidence of the facts stated therein. At the highest, it may provide corroborative material when supported by other reliable evidence. The criminal investigation and the conclusion reached by the investigating agency cannot substitute the evidence required before the Claims Tribunal.

10. At the same time, the mere filing of a written statement by the owner stating that Gopal was driving the tractor cannot, by itself, be accepted as conclusive proof of that fact either. The owner had to establish his version by reliable evidence. The driving licence of Gopal produced by him establishes, at best, that Gopal possessed a driving licence. It does not by itself establish that Gopal was actually driving the tractor at the time of the accident. Therefore, the mere fact that the owner subsequently claimed that Gopal was the driver, instead of Ramesh, was not sufficient

to discard the claim merely on that ground. Likewise, the charge-sheet against Ramesh was not sufficient, by itself, to conclusively establish that Ramesh was the driver.

11. The burden of establishing a ground which would exonerate the Insurance Company was upon the appellant. If the Insurance Company wanted to establish that Ramesh was in fact the driver and thereby challenge the stand taken by the owner, it could have produced some positive evidence in that regard. No such convincing evidence has been brought on record. In the absence of such evidence, the discrepancy regarding the name of the driver cannot be treated as sufficient to defeat the claim of the claimants.

12. Thus, although the evidence regarding the identity of the driver is not free from some discrepancy, the same does not, in the facts of the present case, justify interference with the award passed by the learned Tribunal.

13. In view of the foregoing discussion, the appeal is **dismissed**.

(Anil Kumar-X,J.)

August 17, 2026
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