

M/S Oriental Insurance Company Ltd Vs Tetari Devi

Court: Jharkhand High Court

Date of Decision: Jan. 22, 2025

Acts Referred: Motor Vehicle Act, 1988 " Section 163A

Hon'ble Judges: Gautam Kumar Choudhary, J

Bench: Single Bench

Advocate: Nalini Jha, Arvind Kumar Lall

Final Decision: Dismissed

Judgement

Gautam Kumar Choudhary, J

1. From perusal of the order dated 04.05.2018 and subsequent orders, it appears that appellant was directed to serve notice by taking fresh steps upon

respondent no. 7 by both processes, for which, requisites etc., to be filed within a week.

2. A peremptory order was also passed on 27.07.2018, but still the order has not been complied. Subsequently due to non-compliance of the order, the

instant appeal was dismissed and it was restored on 15.03.2024 in C.M.P. No. 494 of 2018, but even after restoration, the order dated 27.07.2018 has

not complied with.

3. It appears that appellant-Insurance Company is proceeding in this case in a most lackadaisical manner and does not deserve any indulgence, as

such, prayer for further adjournment is accordingly rejected.

4. The instant Misc. appeal has been preferred by the appellant- Insurance Company against the award dated 22.05.2010 passed by learned District

Judge cum Motor Accident Claim Tribunal, Daltonganj, in M.V. Claim Case No.54 of 2007 whereby compensation of Rs. 3,22,000/- was awarded

along-with interest at the rate of 7% per annum under Section 163-A of the M.V Act, 1988.

5. Brief facts of the claimant's case is that on 13.12.2006 at about 7:30 p.m., the deceased [Budhram Yadav @ Balram Yadav] died in a motor

vehicle accident involving a bus bearing registration No. JH-03B 2604 when the deceased was alighting from the said bus and bus was moved without

giving any horn resulting in the accident.

6. Opposite party Nos. 7 is the owner of the offending vehicle. Learned Tribunal recorded a finding that accident took place due to rash and negligent

driving of the offending vehicle by its Driver (O.P. no. 2) and consequently, taking a sum of Rs. 3,000/- per month from dairy business as the income

of the deceased.

7. The appeal has been preferred on the ground that the driver of the vehicle was not having any valid driving licence.

8. As per the surveyor's report (Ext. A), the driving licence was verified and was not found to be valid and genuine. The driving licence was

issued in the name of Deepak Agrawal and not in the name of Ramesh Shukla, who was driving the vehicle at the relevant time.

9. It is also argued that multiplier of 13 is on the higher side and not as per the schedule as the age of the deceased was as 49 years as per the

witnesses.

10. Learned counsel on behalf of the claimant(s) has defended the impugned judgment.

11. From the perusal of the judgment delivered by the learned Tribunal, it appears that no issue has been framed with regard to the validity of the

driving licence of the driver of the offending vehicle. Surveyor's report was adduced into evidence and marked as Ext. A, but there is no evidence

to suggest that there is any report of DTO regarding validity of the driving licence proved by the insurance company. Furthermore, surveyor was also

not examined in this case.

12. Learned Tribunal has assigned cogent reason(s) at para 28 of the judgment, rejecting the plea of the Insurance Company that the driver was not

having any valid driving licence.

13. Under the circumstance, I do not find any merit in the instant appeal which accordingly stands dismissed.

14. The final compensation amount [after deducting the amount, if any paid] will be deposited by the appellant-Insurance Company before the learned

Tribunal within six weeks of the order. Thereafter the learned Tribunal shall disburse the compensation amount within two weeks.

15. Statutory amount deposited by the Appellant-Insurance Company at the time of filing of the Appeal shall be remitted to the learned Tribunal to be

disbursed to the Claimants and be adjusted against the final compensation amount.

I.A(s), if any, stands disposed of.