

(2001) 11 AHC CK 0138

Allahabad High Court

Case No: None

Vishesh Kumar

APPELLANT

Vs

Shanti Devi and Others

RESPONDENT

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**Date of Decision:** Nov. 29, 2001**Citation:** (2002) 1 ACC 507**Hon'ble Judges:** V.M. Sahai, J; Sudhir Narain, J**Bench:** Division Bench**Final Decision:** Dismissed

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### Judgement

Sudhir Narain, J.

This appeal is directed against the award of the Motor Accident Claims Tribunal, Etah dated 6.8.2001 awarding Rs. 1,30,000/- to the claimant-respondents as compensation.

2. The claim petition was filed with the allegations that on 8.8.1999 at about 5.00 p.m. while the deceased Nepal Singh was sitting in front of his house, scooter No. UP 83B/8154 being driven by the appellant, dashed against the deceased Nepal Singh due to which he received serious head injuries and died on the way to hospital. He left behind him his widow and one minor son who were solely dependant upon him. He was earning about Rs. 3,000/- per month from the sale of buffalo milk. The appellant, who was the owner of the vehicle involved in the accident, contested the claim petition denying that he was driving the scooter rashly and negligently. The New India Insurance Company Ltd. (respondent No. 3) alleged that the accident had not occurred due to rash and negligent driving of the scooter and further that as the policy and driving licence were still to be verified it was not liable to pay any compensation to the claimant-respondents. The Tribunal after considering all the relevant aspects of the matter and the evidence on record recorded its finding in favour of the claimant-respondents that the accident had occurred due to the rash and negligent driving of the scooter in question resulting into the death of Nepal Singh. The Tribunal further found that the driver had valid

licence and the licence was renewed before the accident had taken place and awarded Rs. 30,000/- to the claimant-respondents as compensation. This order has been challenged in this appeal.

3. We have heard the learned Counsel for the appellant. The learned Counsel for the appellant contended that in fact the Insurance Company (respondent No. 3) was liable to pay the amount as the vehicle in question was insured with it. This point was also urged before the Tribunal. The Tribunal has recorded a finding that the driving licence, which was produced before it, was a forged and fictitious document. The learned Counsel for the appellant has challenged this finding recorded by the Tribunal. Considering this submission of the learned Counsel for the appellant and on the basis of the evidence placed before us, we do not find that the finding recorded by the Tribunal is erroneous in law.

4. In view of the above observations, we do not find any merit in this appeal.

5. This appeal is accordingly dismissed.

6. Rs. 25,000/- deposited by the appellants in this Court shall be remitted by the Registry of this Court to the Motor Accident Claims Tribunal concerned within one month from today for payment/adjustment of the amount payable by the appellant to the claimant-respondents.