

Delhi High Court Union Of India (Uoi) vs Rajo And Ors. on 3 December, 2004 Equivalent citations: I (2005) ACC 141, 116 (2005) DLT 226, 2005 (80) DRJ 384 Author: R Sodhi Bench: R Sodhi JUDGMENT R.S. Sodhi, J. C.M. Appl. 15143/2004 : Allowed subject to just exceptions. Application is disposed of. C.M. Appl. 15142/2004: For the reasons stated in the application, this application is allowed and the delay in filing the appeal is condoned. MAC. APP 524/2004 and C.M. Appl. 15141/2004 1. This appeal seeks to challenge the order of the Motor Accidents Claims Tribunal, Delhi, dated 31.7.2004 in Suit No. 672 of 1996 whereby the learned Tribunal has awarded a sum of Rs.6,99,096/- together with interest at the rate of 9 per cent per annum to the claimant on account of death of Daryao Singh in an accident on 11.4.1996. 2. Brief facts of the case, as noted by the Tribunal, are as under : 'It is alleged that the deceased suffered fatal injuries in an accident on 11.4.96 at about 1.00 p.m. in front of Eastern Court Janpath New Delhi, due to rash and negligent driving of R-1 while driving motor cycle no.92-A-43429 x of PMO CIDSS, EDP, Enclave, New Delhi, when the deceased was crossing the road on foot. The deceased was removed to RML Hospital and he succumbed to injuries on 18.4.96. A case under section 279/337 IPC was registered vide FIR no.298/96 at P.S.Connaught Place, New Delhi. It is alleged that at the time of accident deceased was aged 40 years and he while serving in MTNL, was getting Rs.2653/- p.m. as salary. Besides it, he was also having additional income from growing vegetables and green fodder paddy and wheat and by selling milk. Had he been survived he would be living up to 80 years and earning much more and supporting the petitioners. It is stated that due to untimely death of deceased the petitioners have suffered a lot besides losses, damages, mental agony pain etc. They have claimed aforesaid compensation against R-1 driver R-2 under whose employment R-1 was working as they are stated to be jointly and severally liable to pay the same. The respondents were served with the notice of the petition. R-4 mother of deceased and mother in law of P-1 did not contest the petition and case proceeded ex parte against her. In their joint W/s R-1 and R-2 took several preliminary objections including that the petition was not maintainable as the petitioners have come to the court with clean hands and concealed material facts and that accident took place due to negligence of deceased himself. On merits with regard to paras no.1 to 11 it is stated that it is matter of record and petitioners may be put to strict proof to prove them. Almost all other averments made in the petition were denied. Registration no. of alleged offending vehicle, name of driver and owner were admitted. However, it was alleged that there was no negligence on the part of R-1 in causing the said accident. On pleadings of the parties following issues were framed: i. Whether the deceased received fatal injuries on account of rash and negligent driving of motor cycle no.92A-43429X by R-1? ii. Whether the petitioners are entitled for compensation and if so to what amount and from whom? iii. Relief:'3. Counsel for the appellant contends that the deceased jumped the red light and hit into a maruti van before colliding with the vehicle of the respondent. He submits that the respondent cannot be held liable for such an accident. 4. I have heard counsel and with his assistance gone through record of the case. Counsel basis his argument on

the testimony of RW-2, Subedar Maj. P.K. Lal to the effect that he was riding pillion on the motor-cycle driven by Ashok Kumar, RW-1, when the deceased, while escaping two or three vehicles, was struck by a maruti car and received injuries and thereafter taken to Ram Manohar Lohia Hospital by the witnesses. The trial court, while analysing his testimony, has noted as under :“If a look is made to the testimony of Ashok Kumar RW1, he has admitted that he has not protested against the registration of FIR to higher authorities. The plea taken by R1 is that it was another car which hit the deceased and he fell before his motor cycle. However, he has failed to tell the number of the said car in his cross-examination. Even P.K.Lal, Subedar Major has also failed to tell the number of the car which allegedly hit the deceased. The fact that both of them have failed to tell the number of the said car, it can not be said that the deceased was hit by that car. Thus, the fact remains that it was his vehicle i.e. motorcycle which was involved in the accident. Also, the fact that FIR has been registered against R1 which is Ex.PW2/A and another document Ex.RW1/F/D2 which is the mechanical inspection of motorcycle No.92A 43429 X, it is evident that it, R-1 was rash and negligent in driving his vehicle which hit the deceased who received grievous injuries and succumbed to the same. Though there is no eye witness but these documents show that it was his vehicle which was involved in the accident and it is also well settled, it is not necessary for the petitioner to prove the rashness and negligence of the respondent.” 5. It is needless to repeat what has already been stated and I see no infirmity in the reasoning of the Tribunal. Mere assertion or reiteration of facts by counsel for the appellant does not advance the matter further. Counsel has not been able to point out any defect in the reasoning. Once it is held that the deceased met his end in the accident with the vehicle driven by RW-1, where RW-2 was riding pillion, the rest of the matter is merely computing of compensation which has not been challenged before me. 6. In this view of that matter, I find no infirmity in the order under challenge. MAC. APP. 524 of 2004 and C.M. Appl. 15141 of 2004 are dismissed.