



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

SPECIAL LEAVE PETITION (CIVIL) NO.24959 OF 2019

**RELIANCE GENERAL
INSURANCE COMPANY LIMITED**

...PETITIONER

VERSUS

SWATI SHARMA AND ORS.

...RESPONDENTS

J U D G M E N T

K. VINOD CHANDRAN, J.

1. The petition is filed by the Insurance Company, insurer of a truck which collided with a motor bike leading to fatal injuries to the bike rider. The wife and mother of the deceased filed the claim petition, in which, the Tribunal while making the award found contributory negligence on the deceased. The liability of the award amounts on the insurer of the truck was apportioned at 50%. The claimants and the insurer filed appeals before the High Court. The High Court found negligence solely on the part of the driver

of the truck and enhanced the award amounts, against which the instant petition is filed.

2. The learned counsel for the Insurance Company argued that this was a unique case in which the driver of the alleged offending vehicle mounted the box and spoke of the accident, which deposition indicates negligence on the bike rider. This is amply supported by the Officer who investigated the crime. The interested testimony of the eyewitness, who was admitted to be the friend of the deceased should be eschewed considering the overwhelming evidence of negligence on the part of the bike rider.

3. The learned counsel for the respondent Nos.1 and 2 seeks to uphold the judgment of the High Court, which reversed the order of contributory negligence passed by the Tribunal. The learned counsel also justifies the enhancement made, relying on precedents.

4. The reliance placed is on the driver of the offending vehicle, the truck, who was examined as RW1 and the Investigating Officer who was examined as RW3. RW1 mounted the box, and his deposition was to the effect that

there was no collision at all and the case was filed against him only because he was driving a bigger vehicle. However, the evidence of RW3, Investigating Officer was contrary, to the extent of admitting the collision between the bike and the truck. His evidence was that there was contributory negligence on both the drivers, on an assessment of the lie of the vehicles at the accident site. But, in cross-examination he admitted that the position of the motorcycle could have been changed by the time he reached the spot. It is also very pertinent that the deposition of RW3 about the negligence of bike driver conflicted with the charge sheet filed by him, against the truck driver. His explanation was also that the charge sheet was filed against the truck driver since the motor-cycle driver had died in the accident. We are unable to countenance the said statements of the Investigating Officer, who was examined on behalf of the respondent before the Claims Tribunal.

5. The evidence of the eyewitness, PW3, was that he was accompanying the deceased in another bike. They were proceeding to a common destination on two bikes, PW3 following the bike of the deceased. He specifically spoke of

both the bikes being driven in normal speed when the offending truck came through the wrong side and hit the bike of the deceased. He has also deposed that the truck was driven in a rash and negligent manner. After the accident the truck was not stopped. It was taken to a distance and the driver fled from the spot of accident. RW1 has a case that he had fled only because people had gathered to beat him. His deposition is also that he had, after fleeing from the spot of the accident, gone to the police station to report the accident. The accident, however, was reported to the police by PW3, the eyewitness. We are unable to place any reliance on the interested testimony of RW1 and the statements made by RW3, contrary to his own findings in the investigation.

6. In the totality of the circumstances as revealed from the evidence on record, we are of the opinion that the judgment of the High Court fixing the entire liability on the offending vehicle, its owner and driver is perfectly in order. The petitioner-insurer, who has insured the vehicle is bound to indemnify the owner of the vehicle who has the vicarious liability as against the negligence of his employee- the

driver. The learned counsel for the petitioner argued only on the question of contributory negligence and hence we say nothing on the enhancement of the award amounts; which in any event, we find to be proper.

7. We dismiss the Special Leave Petition and direct that the amounts deposited in Court shall be disbursed along with interest to the claimants, if not already done and the balance amounts, if any, with interest shall also be paid through RTGS transfer, on the claimants furnishing their account details, within a period of one month from the date of this order.

8. Pending applications, if any, shall stand disposed of.

..... J.
(SUDHANSHU DHULIA)

..... J.
(K. VINOD CHANDRAN)

**NEW DELHI;
APRIL 16, 2025.**