

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 5096-5097 OF 2008

[Arising out of SLP(C) Nos. 15558-15559/2003]

NABEESA AND ORS.

... APPELLANT(S)

:VERSUS:

JOY ALIAS LONAPPAN AND ORS.

... RESPONDENT(S)

ORDER

Leave granted.

The question which arises for consideration in these appeals is as to whether in absence of any proof of negligence on the part of the driver of the offending vehicle, the Motor Accidents Claims Tribunal was correct in declining to grant an award of compensation in favour of the appellant.

Learned counsel for the appellant submits that the names of the witnesses who had seen the occurrence would appear from the First Information Report and other documents which must have been filed by the Investigating Officer in the criminal case which was initiated against the driver of the said vehicle.

Both the Tribunal and the High Court recorded a finding of fact that the

negligence on the part of the first respondent had not been proved. Before the High Court, merely an oral statement was made that a list of witnesses have been filed. The High Court, however, noticed that even such a ground had not been taken in the memo of appeal. We are, therefore, not in a position to accede to the request of the learned counsel to grant the appellant another opportunity to produce her witnesses before the Tribunal.

The appeal is dismissed accordingly. No costs.

.....J
(S.B. SINHA)

.....J
(AFTAB ALAM)

NEW DELHI,
AUGUST 13, 2008.