(1992) 10 P&H CK 0068

In the Punjab And Haryana At Chandigarh

Case No : First Appeal of Order No. 736 of 1990

Daljit Singh — APPELLANT

Vs

Harbinder Kaur and Others — RESPONDENT

Date of Decision : 20-10-1992

Acts Referred:
Motor Vehicles Act, 1939 — Section 95

Citation : (1993) 1 ACC 13 : (1993) ACJ 399 : (1993) 103 PLR 151

Hon'ble Judges : Amarjeet Chaudhary, J

Bench : Single Bench

Advocate : Ashit Malik, for the Appellant; N.K. Khosla, for the Respondent

Final Decision : Allowed

Judgement

Amarjeet Chaudhary, J.—The claim application was filed before Motor Accident Claims Tribunal, Ludhiana, by the heirs of Harbans Singh who died in Road Accident on 28.2.1987. The Motor Accident Claims Tribunal vide its award dated 4.6.1990, allowed the claim application and granted a sum of Rs. 2,88,000/- as compensation with 12% interest from the date of the claim application which was to be paid by the three respondents, i. e. the driver, owner and Insurance Company jointly and severally. The liability of the Insurance Company was limited to the extent of Rs. 1,50,000/-. Aggrieved against the award of the Tribunal, Daljit Singh, the owner of the truck, has filed the present appeal.

2. The challenge to the award fixing his liability over Rs. 1,50,000/- is primarily on the ground that the appellant had paid extra premium of Rs. 150/- and had obtained Insurance Policy with unlimited liability As such, the entire liability would be that of the Insurance Company.

3. Shri N. K. Khosla, Advocate, appearing for the respondent-Insurance Company has controverted the claim of the learned counsel for the appellant.

4. I have considered the arguments advanced at the Bar and and have perused the original Insurance Policy issued by the Insurance Company.

5. A perusal of the Insurance Policy reveals that the appellant had paid Rs. 150/- as Additional premium and the liability of the Insurance Company qua third party was unlimited. In this view of the matter the Insurance Company is liable to satisfy the entire claim. (A photostat copy of the Policy is directed to be placed on the record).

6. It has also been brought to the notice of the Court that Rs. 25,000/- had been deposited by the appellant on account of no fault liability and the same had been disbursed to the claimants.

7. In view of the above discussion, the appeal is accepted, the award of the Motor Accidents Claims, Tribunal, Ludhiana, is modified in so far as it pertains to fixing the liability of the appellant to pay the compensation and it is held that the Insurance Company is liable to satisfy the entire claim. The Insurance Company shall also reimburse the amount of Rs. 25,000/- to the appellant alongwith proportionate interest.

8. No costs.

