courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 30/08/2026

(2010) 03 CHH CK 0004

In the Chhattisgarh High Court

Case No : M.A.C. No. 321 of 2010

Devendra Kumar Sethia APPELLANT

Vs

Jasoda Panigrahi and Others RESPONDENT

Date of Decision : 26-03-2010

Acts Referred:

Motor Vehicles Act, 1988 — Section 118, 140, 147, 166, 2(14)

Citation : (2011) 2 TAC 430

Hon'ble Judges : Nawal Kishore Agarwal, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

N.K. Agarwal, J.—Heard on admission.

2. This is owner''s appeal directed against the award dated 13th January, 2010, passed by the Additional Motor Accident Claims Tribunal, Gariyaband, District Raipur (for short ''the Tribunal'') in Claim Case No. 51/2009, whereby and whereunder an amount of Rs. 1,85,000/- has been awarded in favour of the claimants alongwith interest @ 7.5 percent per annum, holding the Appellant responsible for its payment; exonerating the Insurance Company from its liability to pay compensation.

3. The brief facts of the case are as under:

(i) On 27th September, 2008, Jitendra Panigrahi (since deceased), while sitting in the Tractor trolley bearing registration No. OR-08-D-6528, the said Tractor turned turtle due to rash and negligent driving of Respondent No. 3 i.e. Driver of the Tractor and Jitendra Panigrahi succumbed to the injuries sustained in the said accident.

(ii) The claimants i.e. Respondent Nos. 1 & 2 preferred a claim petition u/s 166 read with Section 140 of the Motor Vehicles Act against the driver, owner and insurer of the Tractor claiming Rs. 34,26,000/- as compensation for the death of deceased in the said accident.

(iii) The Appellant as well as the Respondent No. 3, by filing their written statements, admitted the accident. It was further pleaded that the vehicle being insured with the Respondent No. 4/Insurance Company, it is for the Insurance Company to pay compensation to the claimants.

(iv) The Insurance Company admitted the issuance of the policy but has specifically pleaded that the deceased was sitting in the trolley; the liability of such person sitting in the trolley is not required to be covered under the policy; sitting capacity of tractor is only one; as per conditions, carriage of passengers/ labour/any other person in the tractor is prohibited and therefore, the Insurance Company is not liable to indemnify the insured.

(v) The Tribunal, on a close scrutiny of evidence led by the parties and the material available on record, held the driver of the Tractor responsible for the said accident and awarded aforesaid amount as compensation to the claimants. However, held liable the Appellant & the Driver for its payment and exonerated the Insurance Company from the liability to pay compensation.

4. Shri Prafull Bharat, learned Counsel appearing for the Appellant, after admitting the fact that policy issued for Respondent No. 4 is for the agricultural purposes, would contend that as per cross examination of Narsingh (AW-2) it is clear that the deceased was sitting in the tractor trolley attached with the tractor alongwith his goods; as held by Supreme Court in case of Natwar Parikh and Co. Ltd. v. State of Karnataka and Ors., a tractor attached with trolley would constitute a "goods carriage" u/s 2(14) and consequently transport vehicle u/s 247 of the M.V. Act, the owner of goods or his representative is entitled to travel in the goods vehicle alongwith his goods in terms of Section 147 of the M.V. Act, and therefore, the Tribunal has erred in exonerating the Insurance Company from its liability to pay compensation.

5. I have heard learned Counsel for the Appellant and perused the order impugned.

6. The Tribunal has referred the case of the claimants in para 3 of its award according to which the deceased was sitting in the offending tractor with the permission of its driver. It is nowhere said that he was sitting as owner or representative of owner of goods being carried in the tractor trolley. The Tribunal has referred the case put-forth by the Appellant as well as driver of the tractor in para 2 & 4 of the award according to which nowhere it has been said that the deceased was sitting in the tractor trolley as owner of the goods or representative of owner of goods alongwith the goods.

7. The Tribunal, by referring Rule 28 of Rules of Road Regulations, 1989 framed by the Central Government u/s 118 of the MV Act, and by referring the policy conditions (IMT-39) in para 11 & 13 of its award, has held that the deceased was sitting in the trolley contrary to Rules of Road Regulations and also contrary to

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/devendra-kumar-sethia-appellant-…

policy conditions, also held that the sitting capacity of tractor-cum-trolley is only one i.e. driver and therefore the Insurance Company cannot be held responsible to indemnify the Appellant.

8. As per Rule 28 of Rules of Road Regulations, 1989, a driver when driving a tractor is prohibited to carry or allow any person to be carried on tractor and driver of goods carriage is prohibited to carry in the driver''s cabin more number than that is mentioned in the registration certificate and shall not carry passengers for hire or reward.

9. The Supreme Court in case of National Insurance Co. Ltd. v. Cholleti Bharatamma and Ors., 2008 (2) T.A.C. 374, has held in para 19 of its judgment that owner of the goods means only the person who travels in the cabin of the vehicle. Admittedly, there is no cabin in the Tractor trolley, the sitting capacity of the tractor is only one i.e. driver.

10. Rule 28 of Rules of Road Regulations, 1989, prohibits carrying of any person in the trolley In such situation, even the tractor attached with trolley satisfies the definition of goods carriage, in view of judgment of Supreme Court in case of National Insurance Co. Ltd. v. Cholleti Bharatamma and Ors. (supra), a person sitting in the trolley cannot be said to be a person sitting as owner or representative of the owner of the goods.

11. As per the policy, a tractor trolley can be used by the Appellant/ owner only for agricultural purposes. Even if it is held that the trailer attached with tractor satisfies the definition of goods carriage, the policy of insurance does not permit the Appellant to use it for carrying goods of other person and therefore, it cannot be said that the deceased sitting in the tractor was covered under the policy of insurance, as the said tractor and trolley was used in breach of condition of policy i.e. for carrying of goods of another person which is certainly not an agricultural purpose.

12. In view of foregoing, I do not find any substance in the appeal preferred by the Appellant. The appeal being devoid of substance is liable to be and is hereby dismissed at admission stage. No order as to costs.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/devendra-kumar-sethia-appellant-…