

(2007) 07 RAJ CK 0099

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 1714 of 2005

Gaura Devi (Smt.) and Others

APPELLANT

Vs

Mr. Kishan Lal and Another

RESPONDENT

Date of Decision : 20-07-2007

Acts Referred:

Citation : (2008) 1 WLN 382

Hon'ble Judges : Asok Parihar, J

Bench : Single Bench

Judgement

Ashok Parihar, J.—The appeal is disposed of finally as prayed by counsel for the parties.

2. The appellants claimants have challenged the award dated 19.03.2005 passed by the Tribunal only to the extent a condition has been put that amount of compensation should not be disbursed to the appellants claimant still an undertaking is given by the owner of the vehicle in favour of the Insurance Company.

3. After having considered entire facts and circumstances, this Court has expressed anxiety on such conditions. The claimants cannot be left on the mercy of the Insurance Company for recovery of their amount. In given cases the owner may not even appear before the Court or the Tribunal making impossible for the claimants to recover the amount thereby only adding hardship and miseries to them. It is for the Insurance Company to recover the amount from the owner before appropriate forum. The claimants cannot be made to suffer on account of inter-se dispute between the owner and the Insurance Company. In such cases when amount of compensation has not been challenged by any party, the Insurance Company may first satisfy the claim and then recover the amount from the owner if directed by the Court.

4. Accordingly, the appeal is allowed. The order dated 19.03.2005 passed by the Tribunal is modified to the extent of condition of submitting security by the owner

first prior to making payment of compensation to the claimants is set aside. However, it is made clear that the Insurance Company is always at liberty to recover the entire amount from the owner of the vehicle in accordance with law.