

(1985) 03 P&H CK 0065
In the Punjab And Haryana At Chandigarh
Case No : F.A.F.O. No. 139 of 1985

Grewal Ice and Chilling Plant	Vs	APPELLANT
Gurmeet Kaur alias Kuljit Kaur and Others		RESPONDENT

Date of Decision : 22-03-1985

Acts Referred:

Motor Vehicles Act, 1988 — Section 95, 95(2)

Citation : (1987) ACJ 586

Hon'ble Judges : S.P. Goyal, J;D.S. Tewatia, J

Bench : Division Bench

Advocate : V.P. Gandhi, for the Appellant; B.S. Wasu, for the Respondent

Final Decision : Allowed

Judgement

D.S. Tewatia and S.P. Goyal, JJ.—This is the appeal of the owner of the offending vehicle against the order of the Tribunal awarding a sum of Rs. 1,34,000/- by way of compensation to the claimants along with 12 per cent interest per annum. Out of the said amount, only a sum of Rs. 50,000/- was directed to be paid by the insurance company.

2. The notice of the appeal was issued to the insurance company only and the appeal qua the claimants was dismissed. The Appellant has claimed that the accident occurred on 24.10.1982 and since before that date, Section 95 of the Motor Vehicles Act stood amended with effect from 1.10.1982 and the statutory liability of the insurance company stood raised from Rs. 50,000/- to Rs. 1,50,000/-, the insurance company was liable to indemnify the Appellant to the full extent of the award amount which happened to be only Rs. 1,34,000/-.

3. On behalf of the insurance company, it has been canvassed that the insurance policy had been issued in February, 1982 when the statutory liability of the insurance company was only Rs. 50,000/- and the insurance company had charged the premium on that basis. Thus, the liability of the insurance company under the policy would be only Rs. 50,000/-.

4. There is no merit in this contention. An identical submission was made before their Lordships of the Supreme Court in *Padma Srinivasan v. Premier Insurance Company Ltd.* 1982 ACJ 191 (SC) and it was turned down. In this regard, the following observations of Chandrachud, C.J. may be quoted with advantage:

We endorse the view taken by the Full Bench of the Karnataka High Court in *Sanjiva Shetty v. Anantha* 1978 ACJ 508 (Kar). The Full Bench overruled the judgment which is under appeal in the instant case and held that the material date for ascertaining the extent of liability of the insurer is the date of the accrual of the cause of action for a claim arising out of an accident, which in general would be the date of the accident and therefore, the insurer's liability arising out of an accident which happens after March 2, 1970, has to be determined on the basis of the amended provisions of Section 95(2) of the Act, even though the policy of insurance may have been issued prior to the date of the amendment, that is prior to March 2, 1970.

The abovesaid case squarely covers the present case. In this view of the matter, it is held that the Respondent insurance company is liable to pay the entire amount of the award to the claimants. The appeal is accordingly allowed to the extent indicated and the award is modified accordingly with no order as to costs.