(1980) 10 P&H CK 0024

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 442 of 1980

Haryana State Electricity Board APPELLANT

Vs

Smt. Pushpa Chadha and Others RESPONDENT

Date of Decision : 10-10-1980

Acts Referred:
Motor Vehicles Act, 1939 — Section 96(1)

Citation : (1981) ACJ 129 : (1984) 55 CompCas 421

Hon'ble Judges : S.S. Sandhawalia, C.J;Sukhdev Singh Kang, J

Bench : Division Bench

Advocate : L.M. Suri, for the Appellant; R.S. Bindra, for respondent Nos. 1 to 4 and Munishwar Puri, for the Respondent

Judgement

1. This is an appeal under Clause 10 of the Letters Patent filed by the Haryana state Electricity Board against the judgment dated the 21st of February, 1980, passed by the learned single judge of this court.

2. The learned single judge allowed the appeal of the claimants and enhanced the compensation from Rs. 45,000 to Rs. 72,800. The claimants have also been held entitled to have interest on this amount at the rate of 6 per cent, per annum with effect from the date when the claim petition was filed. The learned single judge further held that the liability of the insurance company shall be limited to the extent of Rs. 50,000 only.

3. Mr. L.M. Suri, the learned counsel for the appellant, has argued that though in terms of the insurance policy, the liability of the insurance company was limited up to Rs. 50,000, nevertheless, in view of the mandate given in Sub-section (1) of Section 96 of the Motor Vehicles Act, 1939 (hereinafter called "the Act"), the insurance company was liable to pay the interest on this sum also.

4. There is merit in the contention of the learned counsel for the appellant. Section 96(1) of the Act reads as under :

" 96. (1) If, after a certificate of insurance has been issued under Sub-section (4) of Section 95 in favour of the person by whom a policy has been effected, judgment in respect of any such liability as is required to be covered by a policy under Clause (b) of Sub-section (1) of Section 95 (being a liability covered by the terms of the policy) is obtained against any person insured by the policy, then, notwithstanding that the insurer may be entitled to avoid or cancel or may have avoided or cancelled the policy, the insurer shall, subject to the provisions of this section, pay to the person entitled to the benefit of the decree any sum not exceeding the sum assured payable thereunder, as if he were the judgment-debtor, in respect of the liability, together with any amount payable in respect of costs and any sum payable in respect of interest on that sum by virtue of any enactment relating to interest on judgments. "

5. It is clear from the language employed in Sub-section (1) of Section 96 of the Act reproduced above that the insurer is liable to pay the interest also on the amount covered by the insurance policy. In the present case, the insurance company has not been made liable to pay interest on a sum of Rs. 50,000.

6. We, therefore, partly allow the appeal and modify the judgment of the learned single judge and direct that the insurance company shall be liable to pay interest at the rate of 6 per cent, per annum on the sum of Rs. 50,000 awarded against it with effect from the date of the filing of the claim petition. There shall be no order as to costs.

