

(2011) 09 AHC CK 0010
In the Allahabad High Court
Case No : F.AF.O. (Defective) No. 1514 of 2011

Mohan Kushwaha and Others

APPELLANT

Vs

Ghanshyam and Another

RESPONDENT

Date of Decision : 22-09-2011

Acts Referred:

Citation : (2013) ACJ 1496 : (2012) 1 TAC 80

Hon'ble Judges : Pankaj Mithal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Pankaj Mithal, J.—The appeal is beyond time by three days.

Cause shown in the affidavit filed in support of the delay condonation application is sufficient.

Delay is condoned.

Application No. 285431 of 2011 is allowed.

Office to allot regular number to the appeal.

2. Heard Sri Dinesh Pathak, learned Counsel for the appellants, on the merit of the appeal. The appeal is by the owners and the driver of the Tractor /trolley and is directed against the judgment, order and award of the Motor Accident Claims Tribunal dated 31st May, 2011. The accident took place on 12th March, 2007 on account of over turning of the trolley attached to the tractor. On the claim petition being preferred by one of the injured, the Tribunal awarded compensation of Rs. 40,500/- The liability to pay compensation was saddled upon the appellants as the trolley was not insured and the tractor as well as the trolley were being used for carrying passengers i.e. for the purpose other than agriculture.

3. The submission of learned Counsel for the appellants is that since the tractor

was insured, it was for the Insurance Company to indemnify the compensation.

4. The argument has no substance inasmuch as it is settled that a tractor is not a transported vehicle and can only be used for agricultural purposes. It can not carry passengers. It is equally settled that tractor and trolley are two different motor vehicle and have to be insured separately. The trolley in the present case was not insured.

5. In *Oriental Insurance Co. Ltd. Vs. Brij Mohan and Others*, , the Supreme Court held that as the tractor/trolley was not insured in addition to the tractor and the tractor was not being used for agricultural purposes for which it was insured the claim of the labourer travelling in the trolley on being injured in an accident was not maintainable against the Insurance Company and the owner of the vehicle was liable for the compensation. The aforesaid decision was followed by the Supreme Court in *United India Insurance Company Limited Vs. Serjerao and Others*, . It was held that liability regarding labourers travelling in trolleys is only upon the owner of the tractor/trolley and the Insurance Company is not liable to indemnify the loss.

6. Similar view has been expressed by the Supreme Court in *National Insurance Company v. V. Chinnamma and others*, 2004 (3) T.A.C. 577 (S.C.). In the said case the tractor and the trolley attached to it was used for transporting vegetables for sale in the market and not for agricultural purposes. It was held that the tractor was meant to be used for agricultural purposes. It cannot be used as a transport vehicle. The trailer or the trolley attached to the tractor would also required to be used for agricultural purposes unless registered otherwise.

7. In view of aforesaid facts and circumstances, there is no force in the appeal and the same is dismissed as devoid of merit.

Statutory deposit made before this Court shall be remitted to the Tribunal immediately for payment to the claimant.