
(2015) 09 P&H CK 0446
In the Punjab And Haryana At Chandigarh
Case No : FAO No. 5605 of 2005 (OandM)

Nasir Ahmed

APPELLANT

Vs

Sarfudin and Others

RESPONDENT

Date of Decision : 11-09-2015

Acts Referred:

Motor Vehicles Act, 1988 — Section 147

Citation : (2015) 180 PLR 870

Hon'ble Judges : K. Kannan, J.

Bench : Single Bench

Advocate : Sarfaraj Hassain, for the Appellant

Final Decision : Dismissed

Judgement

K. Kannan, J.—This is an inter se dispute between the insured and the insurer. The Motor Accident Claims Tribunal, while awarding compensation to the claimants, directed the compensation amount to be paid by the insurer and also allowed for recoveries against the insured. The justification was that the insured's driver had allowed for passengers to be travelling in a goods vehicle and insured as such. Admittedly, the vehicle, which was involved in a motor accident, was a goods carriage. The claimants had a contention to make that they had purchased wheat and they were transporting the same in the goods vehicle. Evidently, they wanted to take advantage of the fact that the statute provided for compulsory insurance for claims from passengers travelling along with the goods in terms of Section 147 of the Motor Vehicles Act. The Tribunal rejected the contention of the claimants and held that the case of the claimants that the injured/deceased persons were passengers travelling along with the goods was a fabricated version and that they were actually merely passengers who were unauthorised and who had paid Rs. 50 each to the driver, as admitted by the claimants in the evidence. There were 3 reasons given as to why the contention that they were travelling along with the goods could not be true: (i) They had no reason to go to a village Thokan ka Bas for purchase of wheat and

there was nothing particularly shown that it was not available in their respective villages; (ii) Neither the owner nor the driver had been examined to speak about the version that the passengers were actually persons who are owners of the goods travelling along with the goods; and (iii) The persons who claim that they had purchased wheat and they were travelling along with their goods had not examined the person who could have sold the goods. The non-examination of the seller was found to be relevant. The Tribunal, therefore, held that none of the claimants had been travelling with the goods. However, while granting compensation it provided that the insurance company would still be liable by making reference to the judgement of the Supreme Court in *National Insurance Co. Ltd. Vs. V. Chinnamma and Others*, .

2. The appeal is filed against the award of the Motor Accident Claims Tribunal by the owner. I have elicited the reasons given by the Tribunal while not availing the right of indemnity to the insured. I do not find any error in its reasoning to render a variation and to make the insurer fully liable and not to provide for right of recovery. The issue is squarely governed by the decision of the Supreme Court in *New India Assurance Co. Ltd. Vs. Asha Rani and Others*, that held that there was no requirement of compulsory insurance for persons other than owners of goods travelling along with the vehicle. Consequently, if there was no specific insurance coverage for persons other than owners of goods or when there was no authorisation for any other person other than the driver and the cleaner to occupy the cabin in the goods vehicle, there was no scope for providing the owner of the vehicle right of indemnity. Appeal by the owner is consequently dismissed.