

(2010) 10 SHI CK 0303

In the High Court Of Himachal Pradesh

Case No : FAO No"s. 221 of 2004 and 249 of 2005

National Insurance Co.

APPELLANT

Vs

Joginder Singh (dead) through LRs and Others
 Sh.
Raghubir Singh Vs Surinder Kumar Goel and Others

RESPONDENT

Date of Decision : 22-10-2010

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2010) 10 SHI CK 0303

Hon'ble Judges : Surjit Singh, J

Bench : Single Bench

Judgement

Surjit Singh, J.—By means of the present judgment, three appeals, two filed by the National Insurance Company and one by the dependents of a deceased person, who shall hereinafter be referred to as claimants, are being disposed of, as all of them arise out of the same accident.

2. Deceased Swaran Singh and Subhash Thakur were employed as driver and conductor, respectively, on a truck. When, after parking their truck they were standing by the side of the road, an oil tanker bearing Registration No. HR-10A4077 appeared there. Tanker was being driven by respondent Ranbir Singh. It was owned by respondent Surinder Kumar Goel and insured with National Insurance Company (appellant in FAO Nos. 221 and 222 of 2004 and respondent No. 3 in FAO No. 249 of 2005). Tanker hit both the above named driver and conductor of the truck, as a result of which they died. Petitions were filed by their dependents, u/s 166 of the Motor Vehicles Act for award of compensation. It was alleged that the cause of accident was rash or negligent driving of the tanker by its driver respondent Ranbir Singh. Accident took place in the year 1999.

3. National Insurance Company denied its liability on the plea that the driver of the tanker did not possess a valid and effective driving licence and, thus, there was breach of condition of insurance policy as to the persons who were

authorized to drive the vehicle.

4. Learned Motor Accident Claims Tribunal rejected the plea of the Insurance Company and concluded that driver possessed a valid and effective driving licence. It awarded a sum of Rs. 2,10,000/- to the dependents of deceased driver Swaran Singh and Rs. 1,50,000/- to the dependents of the deceased conductor Subhash Thakur, vide two separate awards, both dated 31.3.2004.

5. National Insurance Company has filed two appeals (FAO Nos. 221 and 222 of 2004), challenging both the awards to the extent they held it liable to pay compensation money, on account of agreement of insurance between it and the owner of the vehicle, i.e. respondent Surinder Kumar Goel.

6. Third appeal has been filed by the dependents of deceased driver Swaran Singh for enhancement of compensation.

7. I have heard learned Counsel for the parties and gone through the record.

8. Copy of driving licence of respondent Ranbir Singh (driver of tanker) is Ext. RW1/A. A bare look at the licence shows that initially it was issued for light motor vehicles on 14.9.1993. Thereafter it was endorsed for transport vehicles on 31.3.1995 and description of transport vehicles, tick marked against this endorsement, was Light Motor Vehicles and Heavy Motor Vehicles. That means, vide endorsement dated 31.3.1995, holder of the licence, i.e. respondent Ranbir Singh, was authorized to drive both light transport and heavy transport vehicles.

9. An official from the office of Licensing Authority, Moradabad, that issued the licence, copy Ext. RW1/A, was examined. He is RW-2 Jaipal Singh (in the petition for grant of compensation for the death of Swaran Singh). The witness stated that endorsement made on 31.3.1995, authorizing licence holder to drive transport vehicles, was valid upto 5.1.2000. Accident had taken place on 22.11.1999 or say during the validity period of the licence. Hence, objection raised by the National Insurance Company (appellant in FAO Nos. 221 and 222 of 2004 and respondent No. 3 in FAO No. 249 of 2005) that it is not liable to satisfy the award, because of the driver of the tanker not possessing a valid and effective driving licence, is rejected. Consequently, both the appeals of the said Insurance Company are dismissed.

10. As regards the second appeal, deceased Swaran Singh was a bachelor. His monthly income was Rs. 3000/-. A compensation of Rs. 2,10,000/- has been awarded to his parents. His father was aged 60 years and mother 55 years, at the time of accident. Multiplier of 10 years" purchase has been applied. Loss of dependency has been assessed at Rs. 1500/- per month or say equivalent to 50% salary of the deceased. No cut has been made, on account of the prospects of deceased having raised his own family and, thus, not in a position to provide for the livelihood of his parents to the extent of 50%. Under these circumstances, I do not think there is any scope for enhancement of compensation. Otherwise also, appeal filed by the dependents of Swaran Singh,

i.e. FAO No. 249 of 2005, titled Amar Singh and Anr. v. Surinder Kumar Goel and Ors., has abated, because of the appellants having not taken any steps to bring on record the legal representatives of the owner of the vehicle, who died during the pendency of the appeal.

All the appeals stand disposed of accordingly.