

(1991) 01 RAJ CK 0105
In the Rajasthan High Court

National Insurance Co. Ltd.	Vs	APPELLANT
Chandra Bhaga and Others		RESPONDENT

Date of Decision : 25-01-1991

Acts Referred:

Citation : (1991) 1 ACC 643

Hon'ble Judges : S.C. Agrawal, C.J

Bench : Single Bench

Judgement

K.C. Agrawal, C.J.—This appeal has been filed by the National Insurance Co. Ltd. against the award passed by the Motor Accidents Claims Tribunal Jhun Jhun (sic) Case No. 54 of 1982 dated 30th Oct., 1987.

2. The argument of the appellant Insurance Company is that as its liability was confined to Rs. 50, 000/- the Tribunal committed an error in awarding Rs. 79, 000/- against it. The Insurance Company neither produced the original policy nor made any effort to bring it on record by moving an application before the Tribunal to summon it from the truck owner. What was filed by it in the Tribunal was only a copy of the policy having been endorsed as true copy by someone not known. The appellant-insurance company did not even produce the proposal form which was executed for the issuance of the policy covering the truck in question. The relevance of the proposal form is that it can show what kind of insurance policy sought from the insurance company.

3. learned Counsel for the appellant urged that since under the Motor Vehicles Act, the limited liability of the Insurance Company was Rs. 50, 000/-, the amount awardable against it could not spill over.

4. The submission of the learned Counsel for the Insurance Company is not correct. It is not disputed that no attempt was made by the Insurance Company, on whom entire onus lay to prove that the liability is limited, to get produced the original policy of insurance from the owner. In these circumstances, I hold that the Insurance Company has failed to prove the insurance policy in accordance

with law.

Consequently, the appeal fails and is dismissed.