

(2004) 08 RAJ CK 0059
In the Rajasthan High Court

National Insurance Co. Ltd.

APPELLANT

Vs

Jetha Ram and Others

RESPONDENT

Date of Decision : 18-08-2004

Acts Referred:

Citation : (2006) 4 ACC 292

Hon'ble Judges : Prakash Tatia, J

Bench : Single Bench

Judgement

Prakash Tatia, J.—Heard learned Counsel for the appellant.

2. Only point urged before this Court is that the Tribunal has held that since the victims were travelling in goods vehicle, therefore, the Insurance Company is not liable to pay the compensation amount. Despite this finding, the Tribunal passed the award against the appellant Insurance Company though with liberty to appellant Insurance Company to recover the amount from the owner of the insured vehicle. Once under the law, there is no liability of the insurance company to pay the compensation or to reimburse the compensation to insured, then no direction could have been issued by the Claims Tribunal against the appellant insurance company to pay the compensation amount. Learned Counsel for the appellant relied upon the judgment of the Hon'ble Apex Court delivered in the case of National Insurance Co. Ltd. Vs. Baljit Kaur and Others, According to learned Counsel for the appellant, the Hon'ble Apex Court in the said judgment held that instead of Insurance Company, the owner of the vehicle shall be liable to satisfy the decree and thereafter clarified it that the legal position shall have prospective effect. In view of the above, learned Counsel for appellant submits that direction of Tribunal against the appellant Insurance Company is liable to be set aside.

3. I considered the submissions of the learned Counsel for the appellant. The appellant has been given liberty to recover the compensation amount from the owner of the vehicle after making payment to the claimants. Such type of orders are also passed by the Apex Court in other recent judgments also and this fact is

not in dispute, therefore, this Court is not inclined to entertain these appeals, when appellant's entire interest have been safeguarded by the Claims Tribunal by making it clear that the appellant shall be entitled to recover the compensation amount from the owner of the vehicle.

4. So far what steps can be taken by the appellant Insurance Company in pursuance of the impugned award is concerned, the law has been made clear by the subsequent judgment of Hon''ble Supreme Court and the appellant may move an appropriate application before Tribunal after depositing the entire compensation amount before the Tribunal or may make the payment to the claimants and secure their recovery from the insured through the process of the Court by moving an application before the Tribunal itself. Therefore, I do not find any force in these appeals. Hence, these appeals are dismissed.