

(2002) 09 GUJ CK 0030

In the Gujarat High Court

Case No : First Appeal No's. 384 and 385 of 1993

National Insurance Co. Ltd.

APPELLANT

Vs

Kokilaben Joshi and Others

RESPONDENT

Date of Decision : 25-09-2002

Acts Referred:

Motor Vehicles Act, 1939 — Section 2(1), 95, 95(2)

Citation : (2003) 2 ACC 12 : (2004) ACJ 123 : (2003) 2 GLR 1479

Hon'ble Judges : K.R. Vyas, J;H.K. Rathod, J

Bench : Division Bench

Advocate : B.R. Shah and Sunil B. Parikh, for Petition No. 1 in First Appeal No. 384 of 1993 and B.R. Shah, for Petition No. 1 in First Appeal No. 385 of 1993, for the Appellant; B.S. Patel and Ranjan B. Patel for Respondent Nos. 1, 2 and 3, Shirish Joshi, for Respondent Nos. 2 to 5, M.D. Pandya, for Respondent Nos. 6 to 7, Government Pleader and Lilu K. Bhaya, in First Appeal No. 384 of 1993 and Pushpadatta Vyas, in First Appeal No. 385 of 1993, for the Respondent

Final Decision : Dismissed

Judgement

K.R. Vyas, J.—Both these appeals have been filed by the appellant-National Insurance Company Ltd., challenging the common award passed by the Motor Accident Claims Tribunal (Aux.), Ahmedabad (Rural), at Mirzapur, in M.A.C.P. Nos. 532, 533 and 458 of 1989, dated 21st September, 1992.

By the impugned award, the Tribunal partly allowed the said petitions.

In M.A.C.P. No. 532 of 1989, The Tribunal held opponent Nos. 1, 2 and 3 jointly and severally liable to pay Rs. 4,06,000/- to the claimants with running interest at the rate of 15% per annum from the date of application till realisation, with a rider that if the opponents pay the said amount or deposit in the Tribunal within two months from the receipt of the copy of the award (the time consumed in preparing the copy shall not be taken into account in calculating this period of two months), on being applied within seven days of the award and they shall pay the interest at the rate of 12% with proportionate costs.

In M.A.C.P. No. 533 of 1989, the Tribunal held opponent Nos. 1, 2 and 3 jointly and severally liable to pay Rs. 2,89,000/- to the claimants with running interest at the rate of 15% per annum from the date of application till realisation with the same condition stated above.

Since, the appellant-Insurance Company has filed the appeals being First Appeal Nos. 384 and 385 of 1993 against the judgment and award dated 21st September, 1992 in M.A.C.P Nos. 532 and 533 of 1989 only, and has not challenged the judgment and award passed in M.A.C.P. No. 458 of 1989, it is not necessary for us to state the operative order passed in the said petition.

2. The brief facts giving rise to these two appeals can briefly be stated as under :

On 7-1-1989, the victims of the vehicular accident were travelling in mini type Matador bearing No. GBL-9527 from Baroda to Gandhinagar for official work. The vehicle was being driven by deceased Shri Narottambhai Dhulabhai Baria. One Junior Clerk namely Shri Naginbhai Rameshchandra and one officer Shri K.R. Shah were also travelling in the said Matador. When the vehicle arrived near village Koba, at Ahmedabad-Gandhinagar road, one Truck bearing No. GTF-3817 of respondent No. 7 (original opponent No. 2) was coming from the opposite side at a great speed driven by respondent No. 6 (orig. opponent No. 1). It is alleged that respondent No. 6 lost control over the steering and dashed with the Matador, with the result, driver Shri Narottambhai Baria, Shri Naginbhai and Shri K. R. Shah sitting in the Matador sustained serious injuries. The injured persons were taken to the Civil Hospital, Gandhinagar. Later on, Shri Narottambhai and Naginbhai were shifted to the Civil Hospital, Ahmedabad, however, Shri Naginbhai succumbed to the injury on the same day, while Shri Narottambhai died on 17-1-1989. Shri K. R. Shah who sustained serious injuries was discharged from the Gandhinagar hospital after the treatment. He received injuries on his right hand, mouth, chest and on other parts of the body. He also sustained fractures. His teeth were also broken. After having discharged from Gandhinagar Hospital, he also took treatment from Dr. Arvind Patel, Orthopaedic Surgeon at Baroda. The heirs and legal representatives of Shri Naginbhai filed M.A.C.P. No. 532 of 1989 while the heirs and legal representatives of Shri Narottambhai filed M.A.C.P. No. 533 of 1989 and Shri K. R. Shah filed M.A.C.P. No. 458 of 1989.

The Tribunal, after appreciating the oral as well as documentary evidence, held that the deceased died as a result of rash and negligent driving of Truck No. GTF-3817 by respondent No. 6. The Tribunal, however, exonerated the driver of Matador van. It may be stated that respondent No. 7 (original opponent No. 2) Gujarat Electricity Board, who was the owner of the offending Truck No. GTF-3817 has not filed any appeal or cross-objections even though the said respondent is also held jointly and severally liable to pay the amount of compensation.

3. The only question which is required to be decided in these two appeals is

about the liability to pay the compensation to the claimants. It is the contention of the appellant-Insurance Company that the liability of the appellant-Insurance Company is limited only to the extent of Rs. 1,50,000/- while the contention of the respondent-Gujarat Electricity Board is that as the opponent truck was insured with appellant-Company, as per the terms of the policy, liability to pay compensation being unlimited, the appellant-Company must pay the entire amount awarded by Tribunal.

Since the controversy is in a very narrow compass, and especially when accident and quantum of compensation is not disputed, it is not necessary for us to discuss the evidence on that count.

Learned Counsel appearing for the appellant submitted that the Tribunal ought to have held that the liability of the appellant-Insurance Company was limited to the extent of Rs. 1,50,000/-. After inviting our attention to the Policy Exh. 70, and the deposition of Mr. Malek, the Administrative Officer of appellant-Company, at Exh. 65, learned Counsel submitted that the Policy covers for third party risk, i.e. both the person and property and the premium for covering the risk, injury or damage to the property being Rs. 150/- + Rs. 30/-, in all, Rs. 180/- was received. He further submitted that for providing unlimited coverage for the third party risk, an additional premium of Rs. 50/- was required to be paid to the insured and since the same was not paid, the Company had issued an Act Policy providing the limited coverage.

Learned Counsel appearing for the respondent-Gujarat Electricity Board submitted that the liability of the Insurance Company with regard to the risk is unlimited. By inviting our attention to the relevant clauses of the policy, it was submitted that in absence of mentioning any specific amount covering the risk, and injury of the third party, it is clear that under the policy, the Insurance Company has undertaken unlimited liability to indemnify the insured. Learned Counsel for the original claimants have supported the entire judgment and order, in toto.

4. Exh. 70 is the Insurance Policy executed between the appellant-Insurance Company as well as respondent No. 7, Gujarat Electricity Board, Deesa for the offending Truck No. GTF-3817. It is provided for the limit of the liability as :

(a) Limit of the amount of the Company's liability u/s II(1)(i) in respect of any one accident: Such amount as is necessary to meet the requirements of the Motor Vehicles Act, 1939.

(b) Limits of the amount of the Company's liability u/s II(1)(ii) in respect of any one claim or series of claims arising out of one event: Rs. 50,000. The said Policy covers third party risk.

In the schedule of premium, it is provided as under :

B. LIABILITY TO PUBLIC RISK :

Rs. 180/-

Add.

: for L.L. to authorised non-fare

paying passengers as per END IMT.14(b)

Limit per passenger Rs.

Limit any one accdt. Rs.

Rs. 8/-

Add.

: for L.L. to paid driver &

Cleaner as per END IMT.16

Add.

: for increased T. P. Limits

Sec. II-1(i) Unlimited

Sec. II-1(ii) Rs.

Add.

: for.....

Rs. 188/-

COMPREHENSIVE PREMIUM (A+B)

Less

: 1% Sp. Discount (if due)

Rs. 9/- SD 5%

NET PREMIUM DUE (ROUNDED OFF)

Rs. 179/-

Section II speaks about the liability of the third party and reads as under :

"Subject to the limits of liability the Company will indemnify the insured against all sums including claimant's cost and expenses which the insured shall become legally liable to pay in respect of

(i) death of or bodily injury to any person caused or arising out of the use (including the loading and/or unloading) of the Motor Vehicle,

(ii) damage to property caused by the use (including the loading and/or unloading) of the Motor Vehicle."

On mere perusal of the Policy at Exh. 170, it is clear that the offending Truck of the Gujarat Electricity Board which was an insured vehicle with the appellant-Insurance Company whereby a premium of Rs. 180/- was paid to cover the public risk liability to pay compensation. Mr. Malek, Administrative Officer of the appellant-Company in his evidence at Exh. 65 and particularly in his cross-examination, has stated that, over and above Rs. 180/-, an additional premium in the sum of Rs. 50/- is required to be paid to cover the unlimited third party risk and since the Company has not received any premium for providing the unlimited cover of risk, the Company has not provided the unlimited coverage. It is the contention of the learned Counsel for the appellant that the Policy envisages not only third party risk, but both to person and property, that the premium for covering the risk in respect of the injury or death caused by the accident was Rs. 150/- while for covering for damage an amount of Rs. 30/- was to be paid and in that respect, the premium of Rs. 180/- was paid. In substance, it is the contention that the column of the Policy clearly goes to show that the Company has not received any premium for providing the unlimited coverage, and therefore, the Company has not provided unlimited coverage, and hence, the liability of the Company is limited to the extent of Rs. 1,50,000/-.

5. From the submissions advanced before us, we are given to understand that the Insurance Company used to execute three types of policies with the insurer i.e. Comprehensive Insurance Policy, Liability to the Public Risk (Third Party Liability Insurance Policy) and Act Liability Insurance Policy. The Comprehensive Insurance Policy covers the loss or damage to the Insured's vehicle by accidental external means or malicious acts, fire, external explosion, lightning, self-ignition, burglary, house-breaking or theft, riot, strike, flood, inundation, typhoon, hurricane, cyclone, hailstorm, earthquake (fire and damage). Also whilst in transit by road, rail, inland waterway, lift, elevator or air subject to the limitations mentioned in the policy. The policy also covers the Insured's liability at law to the Public for loss of life or damage to their property caused by the vehicle insured.

Liability to the Public Risk (Third Party Liability Insurance Policy) provides indemnity to the Insured against legal liability for claims by the Public in respect of accidental personal injury or damage to property caused by the insured vehicle.

Act Liability Insurance Policy provides indemnity to the Insured against legal liability for claims by the Public in respect of accidental personal injury and/or damage to any property of Third Party caused by the insured vehicle in a public place, as is necessary to meet the requirements of Section 95 of the Motor Vehicles Act, 1939.

"Note" below the Act Liability Insurance Policy provides as under :

(a) It is not permissible to grant under an "Act" Only Policy any cover other than that required by Chapter VIII of the Motor Vehicles Act, 1939.

(b) It is not permissible to insure liability under the Motor Vehicles Act, 1939 in non-Motor Policies.

(c) xxx xxx xxx"

6. As can be seen from the policy Exh. 70, as far as Limits of Liability are concerned, limit of the amount of the Company's liability u/s II(1)(i) in respect of any one accident is, "Such amount as is necessary to meet the requirements of the Motor Vehicles Act, 1939." The real controversy between the parties is as to which of the three policies will govern the policy Exh. 70. It is the contention of the appellant-Insurance Company that it is an Act Liability Insurance Policy, but the contention of the respondent-Gujarat Electricity Board is that it is Covering Public Risk Third Party Liability Insurance Policy. The learned Counsel for the appellant submitted that use of words "Such amount as is necessary to meet the requirements of Motor Vehicles Act, 1939" shall mean the amount of liability stated in Section 95 of the Act and Rs. 1.50 lacs being the outer limit stated as the liability under the said provision, the limits of liability as far as the appellant-Insurance Company is concerned, is only Rs. 1.5 lacs. To make good this submission, the learned Counsel invited our attention to the decisions of the Supreme Court in the case of National Insurance Co. Ltd., New Delhi Vs. Jugal Kishore and Others, , National Insurance Co. Ltd. v. C. M. Jaya 1954 ACJ 271, Oriental Insurance Co. Ltd. v. T. P. Joshi 2001 (1) GLH 227, United India Fire and General Insurance Co. Ltd. Vs. Bachu Kaba Satrotia and Others, , United India Insurance Co. Ltd. Vs. Revaben Ranchhodbhai Patel and Others, and Sheikhpura Transport Co. Ltd. Vs. Northern India Transport Insurance Co., .

7. Before considering the aforesaid authorities cited before us, we would once again like to highlight the facts by stating that the policy in question Exh. 70 and more particularly as far as the limits of liability are concerned, they only provide limit of the amount of Company's liability u/s II(1)(i) i.e., death or bodily injury to any person caused by or arising out of the use (including loading and/or unloading) of a motor vehicle. It is to be noted here that there is no reference to any amount. However, the policy further states that "such amount as is necessary to meet the requirements of Motor Vehicles Act, 1939". We are, therefore, required to find out as to whether such a clause has been interpreted by the Court in the aforesaid decision cited by the learned Counsel for the appellant.

8. In the case of Jugal Kishore (supra), the Apex Court observed that even though it is not permissible to use a vehicle unless it is covered at least under an "Act only" policy, it is not obligatory for the owner of a vehicle to get it comprehensively insured. In case, however, it is got comprehensively insured, a higher premium is payable depending on the estimated value of the vehicle. Such insurance entitles the owner to claim reimbursement of the entire amount of loss or damage suffered upto the estimated value of the vehicle calculated according to rules and regulations framed in this behalf.

9. It was further pointed out in the said decision that the comprehensive policy only entitles the owner to claim reimbursement of the entire amount of loss or damage suffered upto the estimated value of the vehicle. It does not mean that the limits of liability with regard to third party risks becomes unlimited or higher than statutory liability. For this purpose, specific agreement is necessary which is absent in the present case.

10. Even though in case of Jugal Kishore (supra), similar words like "Such amount as is necessary to meet the requirements of Motor Vehicles Act, 1939" like in the present policy Exh. 70 were used, however, it was a policy of commercial vehicle. Considering the said policy, the Apex Court was required to consider the liability undertaken with regard to the death or bodily injury to any person caused or arising out of the use (including loading and/or unloading) of the motor vehicle falling u/s II(1)(ii), The Apex Court, in the said case, found that no additional premium with regard to the case falling u/s II(1)(i) was paid by the owner of the vehicle to the Insurance Company. Hence, taking into consideration the aforesaid fact, the Apex Court was of the view that the Insurance Company has not undertaken unlimited liability, and therefore, the award could not have been made in excess of the statutory liability i.e. u/s 95 of the Act.

11. As far as the case on hand is concerned, we are required to consider the policy which is not Comprehensive Insurance Policy. Admittedly, the Insured has paid the premium of Rs. 180/- which covers the liability of the public risk against Rs. 150/- covering the risk under the Act. At this stage, we may again refer to the evidence of Mr. Malek Exh. 65. In his evidence, he has clearly stated that under the Act Policy, the premium is of Rs. 180/-. For the purpose of public risk/third party risk, premium is of Rs. 180/-. He has also stated that for covering the third party risk, the party is required to pay additional premium of Rs. 50/-. Except the bare word of this witness, nothing is produced to show that the additional amount of Rs. 50/- covers the unlimited risk. On the contrary, a pointed question was asked in the cross-examination to this witness, namely that in the policy, it is not stated that the risk is limited to Rs. 1.5 lacs, to which he has stated that in the policy, it is stated" as per Motor Vehicles Act." Therefore, under the Act, the limited liability is fixed at Rs. 1.5 lacs, and therefore, he has stated so. He has admitted that in the policy, in the column "liability to third party", it is stated "unlimited liability."

Thus, from the contents of the Insurance Policy and the fact that the Insured had paid Rs. 180/- as premium for the coverage of liability towards public risk, whereas for coverage of "Act only liability" the premium payable under the tariff was Rs. 150/-, we are clearly of the opinion that the appellant Insurance Company is liable to indemnify the owner of the offending vehicle for the entire liability arising in respect of the claims on account of any accident. Section 11(1) (i) of the Act relates to liability to third party and as per the stipulation (limits of liability) in the Insurance Policy, it is clear that the Insurance Company had

undertaken to indemnify the owner of the offending vehicle for such amount as is necessary to meet the requirements of the Motor Vehicles Act, 1939. In our opinion, in view of the limits of liabilities clause contained in the Insurance Policy, it is incumbent upon the insurer to indemnify the Insured for the entire amount which is required to be paid under the provisions of the Act. We are fortified by the judgment of Patna High Court in the case of Dilip Kumar Saha Vs. Runnu Sarkar and Another and Madhya Pradesh High Court in the case of New India Assurance Co. Ltd. Vs. Nanak Chand Ben and Others, . It is observed that :

"Reading of these clauses of policy would indicate that the Insurance Company had undertaken to indemnify the Insured to the extent "such amount" as is necessary to meet the requirements of Motor Vehicles Act, 1939. Apparently, this clause is widely worded and covers the entire liability of the owners. Limits of this extensive liability are provided in the proviso to the aforesaid Section and do not include a case like the present one. Under the circumstances, this provision would indicate that the Insurance Company under this policy has undertaken to indemnify the insured of his total liability under the Motor Vehicles Act. The words "requirements of the Motor Vehicles Act, 1939" cannot be read as requirements of Section 95 only. Then, it cannot be overlooked that Section 95 does not deal with the requirement of insured or the owner of vehicle, it only limits the liability of the Insurance Company. For this reason, Section 95 of the Act cannot be read into this clause of the policy. This is how a comprehensive policy has been interpreted by a Division Bench of Karnataka High Court in Sundaram Finance Ltd. Vs. D.G. Nanjappa and Others, ."

12. Madhya Pradesh High Court has reiterated the same view again in the case of National Insurance Company v. Kamladevi and Ors., 1995 ACJ 456 and in the case of Oriental Insurance Co. Ltd. Vs. Chhotibai and Others, .

13. Learned Counsel for the appellant has invited our attention to the decision of the Constitutional Bench of the Supreme Court in the case of New India Assurance Co. Ltd. Vs. C.M. Jaya and Others, in support of his submission, namely that the liability of the Insurance Company is limited as per Section 95(2) of the Act. We have minutely gone through the judgment delivered by the Constitutional Bench. The question involved in the group of appeals preferred before the Apex Court was whether in the case of Insurance Policy not taking any higher liability by accepting higher premium in the case of payment of compensation to third party, the insurer would be liable to the extent limited liability u/s 95(2) of the Act or the insurer would be liable to pay the entire amount which may be ultimately recovered from the Insured. While answering the said question, the Apex Court referred many judgments including the judgment in the case of Jugal Kishore (supra). The Apex Court, after considering various decisions, scheme of the Act and the policy, concluded that the liability of the insurer depends on the terms of contract and the Insured, as evident from the policy. Arriving at the said conclusion, the Apex Court, it appears, has considered the policies, one being Comprehensive Insurance Policy and another

Act Liability Insurance Policy. It is undoubtedly true that the Apex Court, after considering both the policies, held the Insurance Company liable to the extent limited u/s 95(2) of the Act. In other words, limited liability. In the Comprehensive Policy, as observed by the Apex Court, it has been specifically provided that for the death or bodily injury to any person but except so far as is necessary to meet the requirements of Section 95 of the Motor Vehicles Act, 1939, the Company shall not be liable where such death or injury arises out of and in the course of employment of such person by the Insured. In other words, there is a specific mention of Section 95 in the Comprehensive Insurance Policy. Similarly, the Apex Court, while considering the Act Liability Insurance Policy in the said decision held that the limits of liability u/s II(1)(i) in respect of one accident is Rs. 50,000/-.

Limits of liability of the Company u/s II(1)(ii) in respect of any claim or series of claims arising out of one event is Rs. 50,000/-. Rs. 50,000/- has been specifically mentioned as far as the limits of liability u/s II(1)(i) in the Act Liability Insurance Policy is concerned.

14. The same is not the case as far as the case on hand is concerned. As observed earlier, we are not concerned with the case of Comprehensive Insurance Policy or Act Liability Insurance Policy. The policy which we are considering does not mention the clause "death or bodily injury to any person but except so far as is necessary to meet the requirements of Section 95 of the Motor Vehicles Act, 1939". Similarly, no specific amount is mentioned in the clause "limits of liability" in the policy which we are examining. Therefore, with respect, the judgment of the Apex Court in the case of C. M. Jaya (supra) cited before us will be of no assistance to the cause of the appellant.

15. It is pertinent to note that in Clause (a) of the Limits of Liability in policy Exh. 70 before us, no specific amount of Company's liability u/s II(1)(i) in respect of any one claim is stated while Rs. 50,000/- is specifically stated in Clause (b) of the Limits of Liability u/s II(1)(ii) in respect of any one claim or series of claims arising out of one event. This would go to show that the Company has to indemnify the Insured against all sums including claimant's costs and expenses which the Insured shall legally become liable to pay in respect of death or bodily injury to any person caused by or arising out of the use (including loading and/or unloading) of the motor vehicle.

16. Our attention is invited by the learned Counsel for the appellant to the decisions of this Court rendered in United India Fire and General Insurance Co. Ltd. Vs. Bachu Kaba Satrotia and Others, and United India Insurance Co. Ltd. Vs. Revaben Ranchhodbhai Patel and Others, . The Division Bench of this Court, while considering Section 95(2) of the Motor Vehicles Act (IV of 1939), in Bachu Kaba's case (supra), held that the liability of the insurer in respect of a passenger carried for hire or reward by the statute is limited to Rs. 10,000/- per individual passenger, and consequently, the award of the Tribunal which extends to Rs. 16,000/- is patently erroneous.

17. The Division Bench, in Revaben's case (supra), after considering the decision of Five Judges' Bench of this Court in First Appeal Nos. 1439, 1440 and 1441 of 1979 dated 25-1-1985, considering Sections II(1)(i) and II(1)(ii), held that the insurer shall become legally liable to pay in respect of death or bodily injury to any person caused by or arising out of the use (including loading and/or unloading) of the Motor Vehicle. There cannot be any dispute with respect to the principle laid down in the said decisions. As far as the case of Bachu Kaba (supra) is concerned, it was a case where the Tribunal placed reliance on the relevance of limits of liabilities as mentioned against the provision as per Section II(1)(ii) to a case where the Tribunal was not concerned with the claim arising out of damages to the property caused by the use of the vehicle. The Tribunal read this liability in respect of damage to property caused by the use of vehicle as the limits of liability to pay in respect of personal injury. This Court corrected the error by holding that the Act Liability Insurance Policy would not get enhanced by stipulation as to extent of liability in respect of damage to property.

Similarly, in Revaben's case (supra), this Court laid down that if there is any contractual liability undertaken apart from the statutory liability u/s 95, the Insurance Company is answerable to that contractual liability de hors the statutory liability u/s 95. In the said decision, general condition of policy has been examined in light of facts that no specific condition is mentioned in the clause of limits of liability. Since, we are not concerned with the said question in the present case, the law laid down in the said decision will not be applicable to the facts of the present case.

18. We have gone through the judgment rendered by the Apex Court in the case of Shekhupura Transport Co. Ltd. Vs. Northern India Transport Insurance Co., . The said decision is distinguishable on facts. The Apex Court, in the said decision, held that even though the maximum statutory liability of the individual passenger in a bus is Rs. 2000/-, however, the Company can, by contract, enhance the limit of liability. While agreeing with the said ratio laid down by the Apex Court, we distinguish the said decision by observing that the Apex Court was considering the case arising out of a statutory liability u/s 95(2)(b) of the Motor Vehicles Act while we are concerned with the case regarding the rights of the parties arising out of contractual obligations.

19. Finally, the learned Counsel for the appellant invited our attention to the latest decision of this Court in the case of New India Assurance Co. Ltd. Vs. Vidyutkumar Shantilal Shah and Another, . Incidentally, one of us i.e. H. K. Rathod, J., was party to the said decision. It may further be stated that during the course of dictating the judgment, the learned Counsel for the appellant invited our attention to the order passed by the Apex Court on 14-3-2002 in Civil Appeal Nos. 2156, 2157 of 2002 dismissing the appeals challenging the said judgment rendered by this Court. It appears that the Division Bench was required to interpret the words "such amount as is necessary under the Motor Vehicles Act, 1939" and "Limit of the amount of the company's liability u/s II(1)

(i) in respect of any one claim or series of claims arising out of one accident is unlimited." It, thus, appears that the question before the Division Bench was whether these two recitals in the Insurance Policy were enough to saddle the Insurance Company with unlimited liability to pay compensation to the third party, the appellant. The words "Such amount as is necessary under Motor Vehicles Act, 1939" incorporated in the policy have direct reference to provisions of Section 95(2)(b)(i) of Motor Vehicles Act, 1939. It was, therefore, held that it was an Act Liability Policy only and not that vehicle was comprehensively insured. Obviously, no higher premium was paid by the owner of the vehicle. In the circumstances, it was held that the liability of the appellant cannot exceed Rs. 50,000/-. In our opinion, in the present case, undoubtedly, the policy is neither Comprehensive nor Act policy, but it is a public risk policy. Admittedly, the higher premium is also paid by the owner of the vehicle. Therefore, the decision rendered in the case of V. S. Shah (*supra*), though confirmed by the Apex Court, in our opinion, is distinguishable on facts. Thus, considering the matter from all angles, we are clearly of the opinion that the appellant has failed to make out any case warranting us to take a different view than the view taken by Motor Accident Claims Tribunal. We accordingly hold that the appellant-Insurance Company's liability is not limited to Rs. 1.50 lacs as claimed by it, but it is unlimited.

20. We, therefore, see no merit in these appeals and the same are dismissed with costs.