
(1992) 07 MP CK 0018
In the Madhya Pradesh High Court
Case No : M.A. No. 398 of 1986

National Insurance Co. Ltd.	Vs	APPELLANT
Lalchand Gupta and Others		RESPONDENT

Date of Decision : 03-07-1992

Acts Referred:

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

Citation : (1993) 2 ACC 179 : (1993) ACJ 178

Hon'ble Judges : R.K. Verma, J

Bench : Single Bench

Advocate : S.K. Mishra, for the Appellant; S.S. Tiwari, for the Respondent

Judgement

R.K. Verma, J.—This appeal by the insurance company (insurer) in respect of the truck bearing registration No. UTQ 7748, belonging to respondent No. 3, is directed against the award made by the Motor Accidents Claims Tribunal, Rewa, in Claim Case No. 30 of 1985; decided on 25.7.1986.

2. The facts giving rise to this appeal, briefly stated, are as follows:

On 3.1.1985, truck bearing registration No. MPA 4801 belonging to claimant-respondent No. 1 was damaged in an accident which took place on account of collision of this truck with another truck bearing registration No. UTQ 7748 belonging to respondent No. 3 and being driven by respondent No. 2 on Allahabad Rewa Road between Mangawan and Gangev at the relevant time.

3. On a claim petition having been filed by the claimant-respondent No. 1, the owner of the damaged truck, against the owner, driver and the insurer of the offending truck bearing registration No. UTQ 7748, the learned Tribunal after trial of the case, on appreciation of evidence, found that the respondent No. 2, the driver of the offending truck No. UTQ 7748, was responsible in causing the accident on account of his rash and negligent driving which resulted in damage to the truck No. MPA 4801 belonging to respondent No. 1 and awarded compensation amounting to Rs. 12,500/- to the claimant-respondent No. 1

against the respondent Nos. 2 and 3 and the appellant insurance company by the impugned award.

Being aggrieved by the award, the insurance company has filed this appeal on the ground that the liability of the insurance company as per the policy was limited only to the statutory limit of Rs. 6,000/- as provided in Clause (d) of Section 95(2) in the Motor Vehicles Act, 1939. Section 95(2)(d) provides as under:

Subject to the proviso to Sub-section (1) a policy of insurance shall cover any liability incurred in respect of any one accident up to the following limits, namely:

(a) XXX XXX XXX (b) XXX XXX XXX (c) XXX XXX XXX (d) irrespective of the class of the vehicle, a limit of Rs. 6,000/- in all in respect of damage to any property of a third party.

4. The contention of the learned Counsel for the appellant insurance company is that the offending truck bearing registration No. UTQ 7748 stood insured with it for the period 16.11.1984 to 15.11.1985 during which the accident resulting in damage to the truck of the third party, the claimant, occurred and as per the insurance policy no additional premium has been charged for ensuring liability in excess to the statutory limit of Rs. 6,000/-. It has been pointed out from the concerned policy which is on record that the schedule of premium therein contains a column for additional premium for increased third party limits both in respect of death or bodily injury to any person as well as damage to property caused by the use of the vehicle, but no amount of additional premium has been charged, which indicates that the cover of the liability under the policy is limited to the statutory limit of Rs. 6,000/- in all, in respect of damage to any property of a third party. As such the liability of the appellant insurance company in respect of damage to the truck bearing registration No. MPA 4801 belonging to the claimant-respondent No. 1 cannot exceed Rs. 6,000/-.

5. The learned Counsel for the claimant-respondent has not been able to give any satisfactory reply to the above contention raised on behalf of the appellant insurance company.

6. In my opinion, the contention of the learned Counsel for the appellant insurance company appeals to be sound and the same deserves to be accepted. Accordingly, this appeal is partly allowed. The award passed by the learned Tribunal is modified inasmuch as the joint and several liability of the owner and driver of the offending truck bearing registration No. UTQ 7748 and the appellant insurance company to pay to the claimant-respondent No. 1 compensation of Rs. 12,500/- as adjudged by the learned Tribunal shall hold good in respect of the owner and the driver only and the joint and several liability of the appellant insurance company shall be limited to Rs. 6,000/- only. With this modification in the award the appeal is partly allowed with no order as to costs.