
(2004) 04 GAU CK 0028
In the Gauhati High Court
Case No : M.F.A. No. 1 of 2000

National Insurance Co. Ltd.		APPELLANT
	Vs	
Lilu Rani Majumdar and Others		RESPONDENT

Date of Decision : 01-04-2004

Acts Referred:

Motor Vehicles Act, 1988 — Section 147, 147(1)

Citation : (2005) 2 ACC 553 : (2006) ACJ 808 : (2004) 3 GLR 31

Hon'ble Judges : P.P. Naolekar, C.J.;Ranjan Gogoi, J

Bench : Division Bench

Advocate : B.P. Kataky and P. Sharma, for the Appellant; S.K. Barkatoky, B.P. Singh and N.C. Das, for the Respondent

Final Decision : Dismissed

Judgement

P.P. Naolekar, C.J.—On 8.11-1997, in an accident one Harilal Mazumdar, husband of the claimant (respondent herein) died on the spot. He was the employee of the owner of the truck at the relevant time. The wife preferred a claim petition before the Commissioner of Workmen's Compensation, Nagaon against the owner of the vehicle and the Insurance Company was also made a party to the proceedings. The Commissioner of Workmen's Compensation had held that the accident occurred during, the course of and arisen out of the employment. The deceased was the employee of the owner of the vehicle and at the relevant time, the appellant Insurance Company has insured the truck, which had met with an accident as a result of which the claimant's husband had died. After consideration of the wages and the age of the deceased the Commissioner of Workmen's Compensation has awarded Rs. 1,92,140.00 with interest @ 12% per annum amounting to Rs. 2,38,067.66 as compensation for the death of the husband of the claimant. Aggrieved by the award, the present appeal is filed by the Insurance Company.

2. It is contended by the learned counsel for the Insurance Company that u/s 147 of the Motor Vehicles Act, 1988, liability of the Insurance Company to pay

the compensation for the death of the employee in the goods carriage vehicle would arise only if extra premium is paid by the owner of the vehicle to the Insurance Company. The submission of the learned counsel for the Insurance Company is devoid of any substance. First proviso to Section 147(1)(b) of the Act clearly covers the case of an employee who was carried in the goods vehicle and the Insurance Company is statutorily liable to cover the risk of an employee carried in the goods vehicle. Admittedly, at the relevant point of time the deceased was engaged by the truck owner, which is a goods carrier and when he met with an accident, he was carried in the vehicle. That being the case, the liability of the Insurance Company to indemnify the owner arises out of the insurance policy u/s 147 of the Motor Vehicles Act, 1988. The point raised by the learned counsel for the Insurance Company is squarely covered by a decision rendered by the Apex Court in the case of Ramashray Singh v. New India Assurance Company Limited and Ors., reported in AIR 2003 SCW 3601.

3. The appeal is dismissed. However, there shall be no order as to costs.