
(1983) 10 P&H CK 0038

In the Punjab And Haryana At Chandigarh

Case No : First Appeal From Order No. 235 of 1977

National Insurance Co. Ltd.

APPELLANT

Vs

Maya Devi and Others

RESPONDENT

Date of Decision : 27-10-1983

Acts Referred:

Motor Vehicles Act, 1939 — Section 95

Citation : (1984) 1 ACC 384 : (1985) 58 CompCas 241 : (1985) 88 PLR 83

Hon'ble Judges : S.S. Sodhi, J

Bench : Single Bench

Advocate : S. Maharaj Bakhsh Singh, for the Appellant; O.P. Hoshiarpur, for respondent No. 1, 3 to 6, Devinder Verma and L.M. Suri, for the Respondent

Judgement

Sodhi, J.—The controversy here concerns the extent of the liability of the insurance company for payment of the amount awarded as compensation.

2. The facts relevant to this matter are that Vijay Kumar, a liquor contractor, was killed in an accident with a tractor. He was travelling on his motor cycle at that time. This happened on August 14, 1974, near village Ram Nagar on the Rampura-Maur Road.

3. The Tribunal, holding negligence of the tractor driver to be the cause of the accident, awarded Rs. 1 lakh as compensation to the claimants, Smt. Maya Devi, the widow, Rajesh Kumar, the minor son, and Sita Devi, the mother of the deceased.

4. As regards the liability for payment of the amount awarded, the Tribunal held that it " is payable by the insurance company, respondent No. 2, as the tractor was insured with it, to the extent it is bound by the contract, according to law, and the remaining amount will be paid by Karam Singh, respondent No. 1".

5. In the appeal filed by the tractor owner, the point urged was that the liability of the insurance company extended to the entire amount awarded. According to Mr. M.B. Singh, counsel for the respondent-insurance company in the other

appeal filed by it; the legal position was that the liability was limited to Rs. 50,000.

6. The amount claimed as compensation in this case was Rs. 1 lakh, which was ultimately the amount awarded to the claimants. In the return filed by it, the insurance company had indeed raised the plea that its maximum liability was Rs. 50,000, if at all it was held liable. The most important evidence on this issue was undoubtedly the insurance policy itself. What is on record, however, is only Exh. R-1 which appears to be a carbon copy of the policy of insurance and that too of only a part thereof. In the column, limits of liability, the figure, Rs. 50,000, is mentioned, but it is against the column "Limit of the amount of the company's liability u/s 11(1)(ii) in respect of any one claim or series of claims arising out of one event". There is no evidence on record to explain what this clause means. At the time of hearing, counsel for the owner produced the original policy of insurance, now marked as Exh. X, and a reference thereto showed that this clause was with regard to the damage to property caused by the use of the motor vehicle. There is another separate clause contained in Exh. R-1 which related to compensation payable in respect of death of, or bodily injury to, any person caused by the use of a motor vehicle. This column was left blank. In these circumstances, there is clearly no warrant to hold that the liability of the insurance company was limited to only Rs. 50,000 in this case. The provisions of Section 95 of the M.V. Act, 1939, were next sought to be pressed in aid by the counsel for the insurance company, but these are clearly of no avail. There is no bar in Section 95 to the policy of insurance covering a liability in excess of the amounts specified therein.

7. For the foregoing reasons, it must be held that the insurance company is liable to indemnify the tractor owner to the extent of the entire amount awarded and, consequently, the liability of the insurance company extends to the full amount.

8. In the result, the appeal filed by the insurance company is hereby dismissed, while that filed by the owner of the tractor is accepted with costs. Counsel's fee Rs. 300.