

(2013) 01 RAJ CK 0262

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 2998 of 2009, Civil Miscellaneous Stay Application No. 1766 of 2009

National Insurance Co. Ltd.

APPELLANT

Vs

Shri Kailash Chand Vaishnav and Another

RESPONDENT

Date of Decision : 31-01-2013

Acts Referred:

Citation : (2013) 01 RAJ CK 0262

Hon'ble Judges : Mahesh Chandra Sharma, J

Bench : Single Bench

Advocate : Dinesh Kala, for the Insurance Co, for the Appellant; K.N. Tiwari, Counsel, for the Respondent

Judgement

Mahesh Chandra Sharma, J.—Since all the aforesaid three appeals have been filed against one judgment and award passed by MACT, hence the arguments have been heard together and they are being decided by this common judgment. The facts of the case have been enumerated in the judgment and award passed by the MACT, hence the same are not being repeated hereunder, except wherever necessary.

2. On account of an accident having taken place on 15.10.2007, claim petitions were filed, notices were issued, issues were framed, evidence was recorded and after hearing both the sides, the learned Tribunal decreed different amount in favour of claimants and against the non claimants.

3. The Insurance Co. has filed the aforesaid appeals challenging quantum of compensation.

4. Learned counsel for the Insurance Co. has contended that the learned Tribunal has committed a grave error in not considering the objections raised by the Insurance Co. properly. Hence, the impugned award deserves to be quashed and set-aside. In support of his contentions, he has placed reliance on the judgment of Hon"ble Apex Court rendered in the case of National Insurance Co. Ltd. Vs.

Bommithi Subbhayamma and Others, United India Insurance Co. Ltd. Vs. Suresh K.K. and Another, and M.V. Jayadevappa and Another Vs. Oriental Fire and General Insurance Company Ltd. and Others,

5. E Converso, the learned counsel for the claimants contended that the impugned award passed by the learned Tribunal is just and proper, hence the appeals filed by the Insurance Co. deserve to be dismissed.

6. Having heard the learned counsel for the parties and carefully perused the impugned award including the relevant material on record, it is noticed that the learned Tribunal having analyzed the material in detail, arrived at a conclusion that claimants and deceased Bhanwar Lal took the truck on rent and went to Delhi to sell the vegetables. The Bilti of the aforesaid truck was exhibited as Ex. -3. Under these circumstances, the argument of the Insurance Co. that the passengers were permitted to sit in the truck and fare was charged from them, is not sustainable. The learned Tribunal has rightly passed the impugned award, based on cogent finding, with which I fully concur.

7. For the reasons stated, I do not find any ground to interfere in the impugned award passed by the learned Tribunal and the appeals filed by the Insurance Co. being bereft of any merit deserve to be dismissed, which stand dismissed accordingly. Stay applications also stand dismissed.