(2003) 01 MP CK 0146

In the Madhya Pradesh High Court

Case No : M.A. No. 565 of 2000

National Insurance Co. Ltd. APPELLANT

Vs

Sugan Bai and Others RESPONDENT

Date of Decision : 31-01-2003

Acts Referred:

Citation : (2003) 2 ACC 349 : (2005) ACJ 1547

Hon'ble Judges : S.L. Kochar, J;Deepak Verma, J

Bench : Division Bench

Advocate : S. Dandwate, for the Appellant; Athwale and Manish Jain, for the Respondent

Final Decision : Dismissed

Judgement

Deepak Verma and S.L. Kochar, JJ.—I.A. No. 4298 of 2002 has been filed by respondent Nos. 1 and 2 for early hearing of the appeal on merits. The application is allowed and the appeal is heard on merits.

2. This appeal is at the instance of the insurance company against the award passed by Third Additional Motor Accidents Claims Tribunal, Ratlam in M.C. No. 36 of 1998, decided on 31.1.2000 wherein on account of death of Fulsinghji in a motor accident, his wife and daughter respondent Nos. 1 and 2 herein have been awarded a sum of Rs. 1,23,200.

3. The grievance of the insurance company is that at the relevant point of time, respondent No. 3, the driver of the vehicle was not holding a valid licence to drive a transport vehicle.

4. However, it has not been disputed before us that he was holding a licence to drive private light motor vehicle but it did not contain an effective endorsement made by the licensing authority entitling him to drive a transport vehicle too. However, this point, as has been projected in this appeal, has been squarely covered and answered by a judgment of the Supreme Court in Ashok Gangadhar Maratha Vs. Oriental Insurance Co. Ltd., . In the said case the Apex Court has

held that the vehicle in question would remain a light motor vehicle as the vehicle was weighing less than 6000 kg. and was not carrying any goods at the time of the accident, though the vehicle was designed to be used as a transport vehicle or goods carrier. The Apex Court has further, while interpreting the words ''effective driving licence'' has held that the same would mean a valid licence both as regards the period and type of vehicle.

5. In the case in hand admittedly the appellant had not led any evidence to show that, at the relevant point of time, the vehicle in question was weighing more than 6000 kg. In view of the aforesaid facts and the legal position as emerging from the aforesaid judgment of the Supreme Court, it is clearly made out that respondent No. 3, the driver of the vehicle, at the relevant point of time was holding a valid licence. If that be so the insurance company cannot escape its liability. Thus, we find that the Claims Tribunal was justified in holding the insurance company also liable for payment of compensation.

6. We have been informed that the amount has been directed to be deposited in the FDR. However, the respondent No. 1 mother would be entitled to receive the amount in cash, but that of the daughter would continue to be in fixed deposit till she attains the age of majority.

7. Thus, there is no merit or substance in this appeal. The same is hereby dismissed, but with no order as to costs.