
(1997) 05 P&H CK 0196

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 460 of 1986 in F.A.O. No. 220 of 1985

National Insurance Co. Ltd.

APPELLANT

Vs

Sushil Kumar

RESPONDENT

Date of Decision : 06-05-1997

Acts Referred:

Motor Vehicles Act, 1939 — Section 95

Citation : (1998) ACJ 107 : (1997) 117 PLR 345 : (1997) 4 RCR(Civil) 510

Hon'ble Judges : P.K. Jain, J;M.S. Liberhan, J

Bench : Division Bench

Advocate : M.B. Singh, for the Appellant; L.M. Suri and Deepak Suri, for the Respondent

Final Decision : Dismissed

Judgement

M.S. Liberhan, J.—This judgment will dispose of L.P.As 460 and 461 of 1996 as common question of law and facts are involved therein.

2. The sole question involved in these appeals is whether to the event of death of deceased who was traveling in the truck involved in the accident, while he was in the employment of the hirer, the Insurance Co. would be absolved of its liability ?

3. Undisputed factual matrix which is also not disputed at the Bar is that the deceased being a member of a band party, was traveling in truck No. CHW-6185 when it met with an accident with another truck resulting in fatality of Krishan Lal deceased. His mother, widow and three sons staked their claim for the grant of compensation.

4. The Motor Accidents Claims Tribunal as well as the learned Single Judge came to the conclusion that accident was caused due to rash and negligent driving of the truck driver Kalia respondent. Consequently, the claimants were held entitled to the compensation. However, the Insurance Company was absolved of its liability to pay compensation solely on the ground that since the deceased was not in the employment of Insurer consequently, the insurance company is not

liable to pay compensation.

5. In view of the settled law, rather if we hasten to say it is axiomatic that where . passengers are carried in a vehicle for business reasons or in pursuance of a contract of employment, the insurance company would be liable to pay compensation. Reference may be made to the Full Bench in *Oriental Fire and Insurance Co. Ltd. v. Gurdev Kaur* (1967)69 P.L.R. 461 (F.B.), *Kumar Mohamed Rafique* (since deceased) by his heirs Vs. *Municipal Corporation of Greater Bombay*, and *National Insurance Co. Ltd. v. Laxmi Devi and Ors.* 1985 ACJ 48 (Orissa) and *Vanguard Insurance Co. Ltd., Madras v. Chinnammal* 1969 ACJ 226 (Mad.).

6. In view of the precedently established law we find no ground to interfere with the finding arrived at by the learned Single Judge to the effect that the deceased was on the insured vehicle in a pursuance of contract of employment by the hirer. Consequently, the insurance company cannot be absolved of its liability.

7. As a result of the above discussion, we find no merit in these Letters Patent Appeals. The same are dismissed with no order as to costs.