
(2000) 06 MP CK 0015

In the Madhya Pradesh High Court

Case No : Miscellaneous Appeal No. 578 of 2000

National Insurance Company Limited

APPELLANT

Vs

Jagarnath and Others

RESPONDENT

Date of Decision : 21-06-2000

Acts Referred:

Citation : (2000) 4 MPHT 275

Hon'ble Judges : Bhawani Singh, C.J;A.K. Mishra, J

Bench : Division Bench

Advocate : S.K. Rao, for the Appellant;

Final Decision : Dismissed

Judgement

Bhawani Singh, C.J.—This appeal is directed against the award dated 24-12-1999 passed by the Additional Motor Accidents Claims Tribunal, Surajpur, District Sarguja in Claim Case No. 87 of 1998.

2. The accident took place on 17-5-1998 in which Budharobai died and allegation is that the accident took place due to the rash and negligent driving of the motor cycle by Ajay Kumar. Defence taken is that the vehicle was not insured with the appellant National Insurance Company at the relevant time; therefore, there was no liability of the appellant to pay the compensation.

3. The Tribunal has on evidence adduced before it come to the conclusion that the vehicle was insured since the amount of premium had been paid to one B.N. Khare, Inspector/Agent of the appellant two days before the accident. Therefore, the Tribunal has awarded compensation of Rs. 1,20,000 to the claimants with interest at the rate of 12% per annum from the date of application till the date of payment.

4. Shri S.K. Rao, learned counsel appearing for the appellant contends that there is no contract of insurance between the parties, therefore, the appellant is not liable to suffer the liability. To substantiate this contention, the learned counsel

submitted that there was no policy of insurance in this case. He further submitted that Shri Khare did not work for the appellant, therefore, the receipt produced by the claimants is not a genuine document.

5. We have considered the contentions of the learned counsel for the appellant but we are unable to appreciate the same. The contention that Shri Khare was not acting for the appellant was not raised before Tribunal; therefore, it can not be accepted. Shri Khare was Inspector of the appellant, therefore, he received the amount of premium in the name of the appellant. Whether he deposited the amount of premium with the appellant or not, the claimants are not concerned with it. The amount was paid before the accident took place and issuance of insurance policy was to take some time and in the meantime the accident took place. Once the premium amount had been paid, issuance of insurance policy was to follow as a matter of course. Simply because the policy had not actually been issued at the time the accident took place within two days of the deposit of premium, that would not mean that there is no privity of contract between the parties. We feel, in the facts of the case, whatever was in the hands of the insured, that was done and it was for the appellant to issue the insurance policy. The receipt adduced by the claimants in the case demonstrates that the premium was paid. The appellant neither took this defence nor took up the plea while cross-examining the witnesses in the case.

6. In the aforesaid background, we find no substance in the case and, consequently, the appeal is dismissed.