

(1984) 08 P&H CK 0079

In the Punjab And Haryana At Chandigarh

Case No : First Appeal From Order No. 480 of 1979

National Insurance Company Limited

APPELLANT

Vs

Kundan Singh and Others

RESPONDENT

Date of Decision : 31-08-1984

Acts Referred:

Citation : (1987) 61 CompCas 708 : (1986) 89 PLR 403

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

Bench : Single Bench

Advocate : Munishwar Puri and G.S. Bhatia, for the Appellant; V.P. Gandhi, for respondent Nos. 1 to 3 and M.S. Dhillon, for respondent Nos. 4 to 10, for the Respondent

Final Decision : Allowed

Judgement

S.S. Sodhi, J.—The controversy in appeal here is with regard to the liability of the National Insurance Co. Ltd. for payment of Rs. 36,000, awarded as compensation to the claimants, they being the widow and children of Devi Dass, deceased, who was killed in an accident with truck, PND 1563. This accident occurred on October 3, 1975.

2. The truck involved in the accident, namely, PND 1563, was admittedly owned by Messrs. Charanjit Singh Gulzar Singh. One Madan Lal admitted in the written statement filed by him that he was the owner of the truck and that he had purchased it from Messrs. Charanjit Singh Gulzar Singh. RW. 2, Kundan Singh, the driver of the truck, deposed that he was the driver of the truck, PND 1563, and was an employee of Madan Lal.

3. Relying upon this evidence, Mr. Munishwar Puri, counsel for the appellant, contended that as the truck was owned by Madan Lal and he was not the insured in respect thereof, no liability for the compensation awarded could be fastened upon the insurance company.

4. Mr. V. P. Gandhi, appearing for the respondents, Madan Lal, Kundan Singh, the

truck driver, and Messrs. Charanjit Singh Gulzar Singh, sought to lay stress upon the fact that no specific plea had been raised by the insurance company in their return that it could not be held liable as Madan Lal was the owner of the truck and he was not the insured in respect thereof at the time of the accident. This argument, though attractive on the face of it, cannot avail the respondents as the strict and technical rules of pleadings are not applicable in these proceedings. Further, as is well known, the insurance company is held liable when in terms of the policy of insurance, it is required to indemnify the owner in respect of the liability fastened upon him arising out of the motor accident. Madan Lal not being the insured, no question of the insurance company coming forth to indemnify could possibly arise. The insurance company could have been liable only if Messrs. Charanjit Singh Gulzar Singh who were the insured were the owners of the truck when the accident occurred. This was obviously not so. In this situation, there is no escape from the conclusion that the National Insurance Company could not be held liable for payment of the compensation awarded to the claimants. The liability for payment thereof must thus be held to be that of the driver, Kundan Singh, and the owner, Madan Lal, jointly and severally.

5. This appeal is consequently hereby accepted with costs. Counsel's fee Rs. 300.