(2020) 02 RAJ CK 0495

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 297 Of 2001

New India Assurance Co Ltd — APPELLANT

Vs

Ishwarlal And Ors — RESPONDENT

Date of Decision : 24-02-2020

Acts Referred:

Citation : (2020) 02 RAJ CK 0495

Hon'ble Judges : Dr. Pushpendra Singh Bhati, J

Bench : Single Bench

Advocate : Dhanpat Choudhary, Rajesh Panwar, MS Soni

Final Decision : Allowed

Judgement

1. The instant appeal has been preferred by the appellant insurance company claiming the following relief :-

â??It is, therefore, humbly prayed that the appeal of the appellant Co. may be accepted and the award passed by the learned Tribunal against the

appellant Company be set aside and be passed against the respondent No. 3 and 4 alone.â??

2. The unfortunate accident happened on 08.04.1997 when the respondent no.1 Ishwar Lal and respondent no.2 Smt.Pushpa along with deceased

Manoj aged 9 years were going on scooter from Balotra to Housing Board. When they reached near Luni river, the Chunni of respondent no.2 got

trapped in the scooter and while the respondent no.1 was trying to pull the Chunni out, at that time, one Babu Lal came on his Motorcycle bearing

registration no.RJ 04-M-7109 (old no.CNW 2058) rashly and negligently and hit them. As a result of accident, Manoj succumbed to the injuries

received and the respondents no.1 and 2 also received injuries.

3. Learned counsel for the appellant insurance company submits that 50% of the award amount has been paid by the appellant however, the liability of

the insurance company is disputed. He submits that it is an undisputed fact that the registration of motorcycle no.CNW 2058 came to an end on

15.10.1996. He submits that the motorcycle no.CNW 2058 was insured from 13.6.1996 till the expiry of registration certificate. He submits that the

accident happened on 8.4.1997 but prior to the accident i.e. on 15.10.1996, the registration certificate of motorcycle no.CNW 2058 expired and thus,

the insurance company is not liable. He further submitted that the registration certificate was again renewed on 28.6.1997 which was to remain in

currency till 22.6.2002. He submits that the initial registration was for 15 years which expired on 15.10.1996 and the second phase of registration was

from 26.8.1997 to 22.6.2002. He further submits that it is an undisputed factual matrix that the accident happened on 8.4.1997 whereas the motorcycle

no.CNW 2058 was not having any registration from 15.10.1996 till 28.6.1997. He thus submits that even if the amount of insurance policy and all other

conditions are undisputed, then also the mandatory condition of registration cannot be ignored and is established and thus, the insurance company is not

liable.

4. Learned counsel for the respondents/claimants submits that the insurance policy was for a longer duration and thus, the indemnification of the

claimants ought to have been done by the insurance company.

5. Despite service, none appears for the respondents owner and driver of motorcycle no.CNW 2058.

6. After hearing learned counsel for the parties and after perusing the record of the case, this Court is of the opinion that once it is an established fact

that the motorcycle no.CNW 2058 was insured on 13.6.1996 with a mandatory condition that the insurance shall be applicable until the registration

certificate was valid, then the registration became fulcrum point of determining the liability of the insurance company. It is also an admitted fact that

the registration came to an end on 15.10.1996 and thereafter renewed on 28.6.1997. Thus, it is an established fact that the registration was not there

on the date of accident i.e. 8.4.1997. Since the motorcycle no.CNW 2058 was not registered, therefore, the mandatory condition of the insurance

policy that the same was applicable only if the registration certificate is in vogue renders the insurance policy as invalid on the date of accident i.e.

8.4.1997.

7. In light of the aforesaid observations, the instant appeal is allowed. It is held that the appellant insurance company is not liable to pay the

compensation amount. The appellant insurance company has already paid Rs.75,000/- to the claimants which it shall be liable to recover from the

respondents owner and driver. The impugned judgment is modified accordingly.

8. All pending applications also stand disposed of.