
(1988) 12 DEL CK 0002

In the Delhi High Court

Case No : First Appeal No. 52 of 1988 and Civil Miscellaneous Appeal No. 658 of 1988

New India Assurance Co. Ltd.

APPELLANT

Vs

N.P. Tyagi and Others

RESPONDENT

Date of Decision : 05-12-1988

Acts Referred:

Citation : (1989) 1 ACC 241 : (1989) ACJ 599 : (1988) 16 DRJ 268

Hon'ble Judges : M.K. Chawla, J

Bench : Single Bench

Advocate : J.R. Midha and N.K. Sangle, for the Appellant;

Judgement

M.K.Chawla, J.

(1) By this order, I purpose to dispose of four connected appeals bearing Nos. F.A.O. 52/88 to F.A.O. 55/88, filed by New India Assurance Company Limited, against the respondents in the respective appeals, as common questions of law and fact arise for determination. The appellant has challenged the correctness of the order of the Motor Accidents Claims Tribunal dated 9-11-1987 whereby the appellant herein was directed to pay the interim compensation of Rs.15,000.00 u/s 92-A of the Motor Vehicles Act to the respondents in the appeals. The submission of the learned counsel for the appellant is that an order u/s 92A of the Motor Vehicles Act cannot be passed unless and until the owner of the offending vehicle admits the accident with the other vehicle. His alternative plea is that assuming for the sake of arguments that such an order can be passed, then in that case Shri Subhash Chand, the transferee of the vehicle insured with the company, be made liable to pay and not the insurance company.

(2) I do not find any substance in the arguments of the learned counsel for the appellant, Shri Prem Kumar was the registered owner of truck/tempo No. Dhl 8938. He had insured his vehicle with the New India Assurance Company Ltd. This vehicle met with an accident as a result of which four persons died. The

L.Rs.and the dependant of the victims filed claim petitions u/s 110A of the Motor Vehicles Act, claiming various amounts of compensation on account of accidental death of their nears and dears. The parties admit the factum of the accident which had taken place during the subsistence of the insurance policy.

(3) Learned counsel for the appellant pointed out some of the documents showing that during the period of insurance. Prem Kumar had transferred the vehicle to Subhash Chand which automatically resulted in the cessation of the liability of the insurer. This very question is the subject-matter of an issue before the Accidents Claims Tribunal. The parties have yet to lead evidence to substantiate this assertion. As at present advised, Shri Prem Kumar must be held to be the registered owner of the vehicle which met with an accident ,and which was insured with the appellant company. For the purpose of payment of interim compensation, u/s 92 of the Act, prima facie, the insurance company (the appellant herein) cannot escape the liability. The Motor Accidents Claims Tribunal, in my opinion, was justified in directing the New India Assurance Company Ltd., to pay the interim compensation of Rs.15,000.00 to the respondents within one month from the date of the order failing which to pay interest at the rate of 12% p.a. thereon.

(4) There is no force in the appeal and the same is hereby dismissed.