

(2002) 03 RAJ CK 0060

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 945 of 1999

New India Assurance Company

APPELLANT

Vs

Smt. Pooni and Others

RESPONDENT

Date of Decision : 26-03-2002

Acts Referred:

Motor Vehicles Act, 1988 — Section 140

Citation : (2004) 2 RLW 1063

Hon'ble Judges : P.C. Tatia, J

Bench : Single Bench

Advocate : R.K. Mehta, for the Appellant; Sanjeev Johari and Rajesh Panwar, for the Respondent

Judgement

Tatia, J.—These appeals are on behalf of the New India Assurance Company Ltd. against the award dated 4th Sept., 1999 by which the tribunal decided total eight claims cases and passed the award in favour of the claimants, but appellant was exonerated by the tribunal with respect to the award liability and the claim petition against the appellant was dismissed. The only grievance of the appellant New India Assurance Company Ltd., is that the appellant had to pay amount against no fault liability in the claim cases, but the tribunal while exonerating the appellant company has not passed any order permitting appellant-company to recover this amount from the owner of the bus and insurance company of the bus, who was found guilty for the accident and was held liable to make payment to the claimants. Therefore, learned counsel for the appellant prayed that the award may be modified holding that appellant will be entitled to recover this amount from the National Insurance Company Ltd.

Learned counsel for the appellant relied upon the judgment of the Hon'ble Apex Court delivered in the case of National Insurance Company Ltd. v. Jethu Ram and Ors. (1), wherein Hon'ble Apex Court held that in case when insurance company paid to the claimants amount awarded under no fault liability and in final adjudication if the insurance company was found not liable further compensation

then the insurance company who is entitled to recover the amount paid under no fault liability from the owner of the offending vehicle.

2. Learned counsel for the National Insurance Company Ltd. could not dispute this proposition of law laid down by the Hon''ble Apex Court in view of the binding nature of the decision of the Hon''ble Apex Court.

3. In view of the above decision, the appellant insurance company is entitled to recover the amount paid by them in these claim cases from the National Insurance Company Ltd.

4. Therefore, the appeals of the New India Assurance Company Ltd. is allowed and the award is modified. The appellant will be entitled to recover the amount paid by them to the claimants u/s 140 of the Motor Vehicles Act, 1988 from the National Insurance Company Ltd.-respondent in the appeals filed by the appellant.