

**(2002) 03 RAJ CK 0056**

**In the Rajasthan High Court**

**Case No :** Civil Miscellaneous Appeal No. 744 of 1999

New India Assurance Company Ltd.

APPELLANT

Vs

Smt. Zayda

RESPONDENT

---

**Date of Decision :** 26-03-2002

**Acts Referred:**

Motor Vehicles Act, 1988 — Section 149

**Citation :** (2004) 2 RLW 1064

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

**Bench :** Single Bench

**Advocate :** R.K. Mehta, for the Appellant; Rajesh Panwar and J.R. Beniwal, for the Respondent

**Final Decision :** Dismissed

---

## **Judgement**

Tatia, J.—Though the appeal was listed for hearing on stay petition, but with the consent of both the parties, the appeal was heard finally.

2. In this case, the accident occurred on 19th June, 1992 causing death of one Nabi Bux. The tribunal passed the award in favour of the claimants against which the appellant-insurance company has preferred this appeal.

3. According to learned counsel for the appellant the vehicle jeep involved in the accident was carrying the marriage party whereas the Jeep was private vehicle and was not a taxi. It is submitted that in reply to the claim petition, the appellant has pleaded that the vehicle Jeep was being driven for hire and reward at the time of accident and was carrying the passengers. Therefore, the insured has violated the condition of the Policy. Hence, the appellant was not liable for the award amount. It is also submitted that the vehicle was being driven for hire and reward can be presumed even in absence of any evidence as circumstances proves it because the fact that owner of the vehicle is a company Ltd. and not a person.

4. Admittedly, the appellant-non-claimant did not produce any evidence in

support of their defence, merely because of the fact that vehicle is registered in the name of a company it cannot be presumed that vehicle was engaged by the company on hire or was given for reward. It is admitted case that the vehicle was permissible to driver for various purposes including the domestic purpose. Carrying the marriage party in the vehicle is a domestic purpose for which the vehicle was used. There is no evidence on record to prove that the marriage party was travelling in the Jeep after making any sort of the payment. Therefore, there is no substance in the submission of learned counsel for the appellant.

5. Therefore, I find no force in the appeal and the same is hereby dismissed.