(2006) 08 P&H CK 0079

In the Punjab And Haryana At Chandigarh

Nirbhai Roadways Pvt. Ltd. APPELLANT

Vs

Gurvinder Singh Bindra and Others RESPONDENT

Date of Decision : 31-08-2006

Acts Referred:

Citation : (2006) 4 ACC 29

Hon'ble Judges : Rajesh Bindal, J

Bench : Single Bench

Judgement

Rajesh Bindal, J.—This is an appeal filed by the owner of the vehicle challenging the award of the Motor Accident Claimants Tribunal, Ludhiana (for short ''the MACT'') arising out of MACT No. 32/8 of 1987, dated August 1, 1988. The only ground raised by the counsel for the appellant at the time of hearing is that the liability of the Insurance Company in the present case was unlimited in terms of the policy issued by the Insurance Company by charging extra premium. However, still the Tribunal while recording finding on issue No. 2 determined the liability of the Insurance Company to be limited to Rs. 3,00,000/- and out of the total amount of Rs. 5,00,000/- awarded as compensation, the appellant was made liable to pay the balance thereof. The facts in the case are not to be gone into in much detail as neither the accident is in dispute nor the quantum of compensation awarded to the claimants. The only issue which requires consideration is as to whether the liability of the Insurance Company in the present case was limited to Rs. 3,00,000/- as directed by the MACT. Counsel for both the parties have referred to and relied upon the policy of Insurance, which is on record as Exhibit R-1. There is a handwritten copy of the policy besides a duplicate typed copy, which is on record. Whereas a perusal of the handwritten copy shows that third party premium of Rs. 240/- was charged and additional third party premium of Rs. 75/- was charged from the appellant for the insurance of the vehicle in question. There is no description given for charging of Rs. 75/- additionally for third party. In the duplicate typed copy, the Insurance Company has shown Rs. 240/- as premium for liability to public risk and Rs. 75/- as premium for coverage of risk of Rs. 3,00,000/- u/s II Clause 1 (ii). The relevant clause of the policy is extracted below:

1. Subject to the limits of Liability the Company will indemnify the insured against all sums including claimant''s cost and expenses which the insured shall become legally liable to pay in respect of

(i) death of or bodily injury to any person caused by or arising out of the use (including the loading and/or unloading) of the Motor Vehicle.

(ii) damage to property caused by the use (including the loading and/or unloading) of the Motor Vehicle.

2. The duplicate typed copy of the Insurance Company is not in terms of the handwritten copy, which is a photocopy of the original issued at the time of issue of policy. Accordingly, the claim of insurance company that the sum of Rs. 75/- additionally charged was for coverage of risk on account of damage to the property of third party, is not borne out from the record.

3. Accordingly, I do not find any merit in this plea of the Insurance Company and reverse the findings of the Tribunal on this issue while holding that Insurance Company having charged extra premium for coverage of unlimited third party risk is liable to bear the entire compensation payable to the claimants.

4. The appeal is accepted to the extent mentioned above and the award of the Tribunal is modified, accordingly.

