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**(2003) 07 AHC CK 0185**

**In the Allahabad High Court**

**Case No :** F.A.F.O. No''s. 1589 to 1592 of 2003

Oriental Insurance Co. Ltd. — APPELLANT

Vs

Pushpa and Others — RESPONDENT

**Date of Decision :** 01-07-2003

**Acts Referred:**
General Clauses Act, 1897 — Section 13
Motor Vehicles Act, 1988 — Section 147, 147(1), 149(2), 170, 173

**Citation :** (2003) 3 ACC 417 : (2005) ACJ 578 : (2003) 5 AWC 4519

**Hon'ble Judges :** S.P. Srivastava, J;K.N. Ojha, J

**Bench :** Division Bench

**Advocate :** A.K. Sinha, for the Appellant;

**Final Decision :** Dismissed

## Judgement

S.P. Srivastava, J.—Heard the learned counsel for the insurer appellant. This appeal was heard along with First Appeal From Order Nos. 1590, 1591 and 1592 of 2003.

2. Taking into consideration the nature of the controversy raised all the aforesaid appeals are being disposed of by a common order.

3. In an accident involving the offending motor vehicle bearing registration No. U.P. 13-B 452, Billu aged about 28 years. Madan Lal alias Mohan Lal aged about 23 years, Mohan Singh aged about 50 years and Mani Ram aged about 18 years, met their untimely death. Their dependants filed separate claim petitions u/s 166 of the Motor Vehicles Act claiming compensation which petitions were registered as M.A.C. No. 124 of 1996 filed by the dependants of Billu, M.A.C. No. 125 of 1996 filed by Ganga Ram and other dependants of Mohan Lal; M.A.C. No. 127 of 1996 filed by Shanti Devi and others, dependants of Mohan Singh, M.A.C. No. 128 of 1996 filed by Daulat Ram and others, dependants of Mani Ram. All the claim petitions were heard together by the Motor Accidents Claims Tribunal and were disposed of by a common order.

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4. The learned counsel for the insurer appellant has stated that the evidence by all the dependants was led in one case which was made the leading case and the said evidence was considered by the Tribunal for disposing of all the cases.

5. The Claims Tribunal after careful consideration of the evidence and the material brought on record, believing the case of the claimants has come to the conclusion that the deceased persons were owners of the singhara being carried in the offending motor vehicle for Dibai to Delhi for sale. All the four deceased persons were businessmen and had paid fare separately for the singhara being carried by them in the offending motor vehicle for sale at Delhi. The accident involving the offending motor vehicle had been caused on account of its rash and negligent driving. The Tribunal after considering the relevant factors had determined an amount of just compensation in M.A.C. No. 124 of 1996 at a figure of Rs. 2,24,600 so far as the dependants of Billu were concerned, Rs. 1,57,000 in M.A.C. No. 125 of 1996 so far as the dependants of Madan Lal were concerned, Rs. 1,57,000 in M.A.C. No. 127 of 1996 so far as dependants of Mohan Singh were concerned, and Rs. 1,57,000 in the M.A.C. No. 128 of 1996 so far as the dependants of Mani Ram were concerned. The amount of compensation awarded was to carry a simple interest at the rate of 9 per cent per annum. It is not disputed that the offending motor vehicle had been duly insured and the owner insured had paid an amount of Rs. 5,707 to the insurer for the insurance policy. Learned counsel for the appellant has produced the copy of the insurance policy.

6. The only submission that is urged and pressed by the learned counsel for the appellant in support of this appeal is that the offending motor vehicle being a goods vehicle, no liability for the payment of compensation could be fastened upon the insurer treating the travellers/passengers to be the owner of the goods. It is, however, not disputed that no effect was made by the insurer to obtain permission as envisaged u/s 170 of the Motor Vehicles Act, It is, therefore, obvious that view of the decision of the Supreme Court in the case of National Insurance Co. Ltd. v. Nicolletta Rohtagi, 2002 ACJ 1950 (SC), the insurer is not entitled to challenge the quantum of compensation.

7. The contention further is that the provisions contained in Section 147 of the Motor Vehicles Act do not contemplate fastening of the liability on the insurer for the payment of compensation awarded to the dependants of more than one owner of the goods or his authorised representative, which were being carried in the offending motor vehicle. The basis of the aforesaid submission is the use of the expression ''owner or his authorised representative'' used in singular in Section 147(1)(b)(i) of the Act.

8. We have given our anxious consideration to the submission made by learned counsel.

9. In the present case the Tribunal has recorded a clear-cut finding accepting the claim of the dependants that the deceased persons were carrying their own

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goods and were sole owners thereof. It was not a case of joint owners of the goods which was being carried in the offending motor vehicle. The scheme underlying the provisions of the Motor Vehicles Act does not prohibit hiring a goods vehicle by several owners for different goods exclusively belonging to them separately which goods may be of similar nature. It is open to the owner of the goods vehicle to carry in such a vehicle goods belonging to various persons to the extent of the permissible limit/weight fixed indicating the capacity of the goods vehicle.

10. It may further be noticed that the relevant provisions contained in Section 147 of the Motor Vehicles Act as amended in 1994 is to the following effect:

"147. Requirements of policies and limits of liability,-(1) In order to comply with the requirements of this Chapter, a policy of insurance must be a policy which-

(a) is issued by a person who is an authorised insurer; and

(b) insures the person or classes of persons specified in the policy to the extent specified in Sub-section (2)-

(i) against any liability which may be incurred by him in respect of the death of or bodily injury to any person, including owner of the goods or his authorised representative carried in the vehicle or damage to any property of a third party caused by or arising out of the use of the vehicle in a public place;

(ii) against the death of or bodily injury to any passenger of a public service vehicle caused by or arising out of the use of the vehicle in a public place:

Provided that a policy shall not be required-

(i) to cover liability in respect of the death, arising out of and in the course of his employment, of the employee of a person insured by the policy or in respect of bodily injury sustained by such an employee arising out of and in the course of his employment other than a liability arising under the Workmen''s Compensation Act, 1923 (8 of 1923), in respect of the death of, or bodily injury to, any such employee-

(a) engaged in driving the vehicle, or

(b) if it is a public service vehicle engaged as a conductor of the vehicle or in examining tickets on the vehicle, or

(c) if it is a goods carriage, being carried in the vehicle, or

(ii) to cover any contractual liability."

11. Much emphasis has been laid by the learned counsel for the appellant on the use of the expression "owner of the goods or his authorised representative" in singular asserting that since the expression owner and representative have been so used, it is apparent that the liability had to be in respect of a single owner or representative and not beyond that.

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12. So far as the above submission is concerned, it may be observed that in the General Clauses Act in Section 13 thereof, it is provided as under:

"13. Gender and number.-In all Central Acts and Regulations, unless there is anything repugnant in the subject or context,-

(1) xxx xxx xxx (2) words in the singular shall include the plural, and vice versa."

13. We are clearly of the opinion that the submission of the learned counsel as noted hereinabove is totally misconceived. It cannot be lost sight of that as provided under the General Clauses Act singular includes plural. That being so the expression owner or the expression representative though used in singular had to be taken to include owners or representatives as the case may be.

14. The learned counsel for the appellant has tried to assail the findings of the Commissioner returned against it but has not been able to demonstrate that these findings can be taken to be suffering from any such legal infirmity which may justify an interference. These findings are amply supported and warranted by the evidence and material brought on record.

15. The amount of compensation taking into consideration the facts and circumstances brought on record, cannot be taken to be unjust.

16. This appeal is totally devoid of merits, which deserves to be and is hereby dismissed in limine.

17. As prayed, amount of Rs. 25,000 deposited with this court by the insurer appellant u/s 173 of the Motor Vehicles Act be remitted to the Motor Accidents Claims Tribunal concerned within one month from the date an application is filed by the appellant for the purpose so that it may be disbursed to the claimants.

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