

(2008) 02 RAJ CK 0019

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 547 of 1993

United India Insurance Co. Ltd.

APPELLANT

Vs

Onkar

RESPONDENT

Date of Decision : 08-02-2008

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2008) 3 WLN 186

Hon'ble Judges : Guman Singh, J

Bench : Single Bench

Judgement

Guman Singh, J.—This appeal u/s 173 of the Motor Vehicle Act, 1988 (for short "the Act") has been preferred by the appellant Insurance Company, challenging the order dated 25.02.1993, passed by the learned Judge, Motor Accident Claims Tribunal, Tonk (for short "The Tribunal") whereby a sum of Rs. 73,200/- with interest @ 12% p.a. was awarded to the dependents of Mst. Madhi.

2. On 27.12.1986, Mst. Maghi (deceased) W/o Onkar, aged 32 years, met with an accident and died on the spot while she was engaged in loading/unloading of sand in the trolley RJX 1226 insured with the appellant Company and was attached with the Tractor RJH 1227.

3. Learned Counsel submits that the Insurance Company is not liable for the compensation in the instant case as the deceased was travelling in the trolley as a passenger. In support of his arguments, he placed reliance on a judgment passed by co-ordinate Bench of this Court in S.B. Civil Misc. Appeal No. 1168/03, United India Insurance Co. Ltd. v. Kaushlya Bai, decided on 20.11.2006 absolving the Insurance Company from liability to pay compensation on the ground that at the time of accident the deceased was travelling as gratuitous passenger while the tractor was insured only for agricultural purposes. Reliance was also placed on National Insurance Co. v. Om Prakash and Ors. 2005(8) RDD 3042 (Raj.), absolving the Insurance Company from the liability on the ground that tractor involved in the accident was insured for agricultural purposes and was carrying

the passengers in the trolley attached to the tractor. Reliance was further placed on *New India Assurance Co. Ltd. v. Smt. Manwati and 14 Ors.* reported in 2003 WLC 442 , absolving the Insurance Company from liability as the deceased were going to pay condolences and the tractor turned turtle and as such there has been violation of the conditions of the policy. Reliance was further placed on *National Insurance Co. Ltd. Vs. V. Chinnamma and Others*, absolving the Insurance Company from the liability on the ground that the deceased were travelling as passengers while the vehicle was insured with the company for carrying the goods exclusively.

4. Learned Counsel for the respondents submitted that at the time of accident the trolley was being used for agricultural purposes and the sand was being loaded, unloaded and transported and the deceased was on the trolley for unloading the sand along with A.W. 2 Bhuri, who has appeared as a witness and has supported the aforesaid version.

5. In view of the submissions, on perusal of the judgment of the learned Tribunal and the record produced before the Court, it is revealed that deceased met with the accident while she was engaged in loading , unloading sand from the trolley attached with the tractor RJH 1227 which was being used for agricultural purposes as mentioned in the terms of the insurance policy of the company and as such the instant case is distinguishable with all the aforesaid citations as in the cases cited above the deceased and injured were found travelling in the trolley as passengers which was not engaged in agricultural purposes while in the present case as per the Insurance Policy, the trolley No. RJX 1226 attached with Tractor No. RJH 1227 was insured for agricultural purposes making the insurance company liable to indemnify the insured. Therefore, for these reasons, I find no ground to interfere with the finding of the learned Tribunal and the appeal stands dismissed.