

(2007) 06 GAU CK 0069

In the Gauhati High Court

Case No : MAC Appeal No's. 181, 182, 183 and 184 of 2006

United India Insurance Co. Ltd.

APPELLANT

Vs

Sunarpati Devi and Others

RESPONDENT

Date of Decision : 08-06-2007

Acts Referred:

Citation : (2008) GLT 140 Supp

Hon'ble Judges : H.N. Sharma, J

Bench : Single Bench

Advocate : R. Goswami, H.K. Mahanta, B.J. Ghosh and T. Kalita, for the Appellant; S.K. Goswami, G. Saikia and D.P. Borah, for the Respondent

Final Decision : Allowed

Judgement

H.N. Sarma, J.—Heard Mr. R. Goswami, learned Counsel appearing for the Appellant Insurance Company. Also heard Mr. S.K. Goswami, appearing for the Respondents.

2. The admitted position is that the claimants/drivers in the offending vehicle number AMU 403 was an Oil Tanker and goods carrying vehicle but not a passenger vehicle. The learned Tribunal after consideration of the evidences and materials available on record held that the claimants are entitled to compensation as follows:

3. The present batch of appeal has been filed against the aforesaid award saddling the liability to satisfy the same by the Appellant.

4. It was further directed that the awarded amount was to be apportioned between the two offending vehicles. It is no longer a res-integra and also fairly agreed by the learned Counsel for the parties that the Insurance Company is not liable to indemnify the owner in case of any injury/death when occurs while travelling in the goods vehicle, provided the passenger is not the owner of goods carried in the vehicle.

5. For ready reference we may refer to the decision of the Apex Court rendered in the case of the National Insurance Co. Limited v. Bonmithi Subhhayamma and Ors. reported in 2005 (2) TAC 1 (SC)

6. In view of what has been stated above and the position of law as it stands today the appeals are allowed. The claimants/Respondents would be entitled to recover the awarded amount from the owner of the vehicle. It is further made clear that if any amount is paid to the claimant by Appellant/Insurance Company, the same shall not be refunded by the claimants to them, and the same would be recoverable from the owner.

7. With the aforesaid modifications and direction, these appeals stands allowed, to the extent indicated.