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(2012) 10 DEL CK 0116

In the Delhi High Court

Case No : MAC APP 152 of 2005

United India Insurance Company Ltd. APPELLANT

Vs

Nirmala Devi and Others RESPONDENT

Date of Decision : 05-10-2012

Acts Referred:
Motor Vehicles Act, 1988 — Section 147

Citation : (2012) 10 DEL CK 0116

Hon'ble Judges : G.P. Mittal, J

Bench : Single Bench

Advocate : Pankaj Seth, for the Appellant;

Final Decision : Dismissed

Judgement

G.P. Mittal, J.—The Appellant United India Insurance Company Limited takes exception to the judgment dated 20.12.2004 passed by the Motor Accident Claims Tribunal (the Claims Tribunal) on the ground that the deceased was travelling in a goods vehicle and thus, the Appellant Insurance Company had no liability to pay the compensation at all. The Claims Tribunal erred in making the Appellant liable to pay the compensation. The learned counsel for the Appellant places reliance on New India Assurance Co. Ltd. Vs. Asha Rani and Others, wherein the previous decision in New India Assurance Company Vs. Shri Satpal Singh and Others, was overruled and it was held that Section 147 of the Motor Vehicles Act, 1988 (the Act) did not impose any statutory liability on the owner of the vehicle to get his vehicle insured for any passenger travelling in a goods vehicle and therefore, the insurer would not be liable for the claim of such person travelling in a goods vehicle.

2. As per Section 147 of the Act, the owner of a goods vehicle is under obligation to insure his vehicle in respect of the death or bodily injury to any person including owner of the goods or his authorized representative carried in the vehicle. Thus, the owner of a goods vehicle is also under statutory obligation and the insurer is bound to provide coverage for the owner or the goods or his

authorized representative travelling in a goods vehicle.

3. As per the averments made in the Claim Petition, the deceased was working with Blue Bell, Dairy at G.P.F. & V. Mandi, Delhi and was drawing a salary of Rs. 5,000/- per month. Although, in the written statement filed by the Appellant Insurance Company a plea was taken that the deceased was travelling in a goods vehicle in contravention of the terms of policy of the insurance. However, during inquiry before the Claims Tribunal the policy of insurance was neither produced nor proved nor even a suggestion was given to the Claimant PW-1 Smt. Nirmala Devi that the deceased was not travelling in the capacity of representative of the owner of the goods but only as a gratuitous passenger.

4. It seems that the plea of the deceased being carried as a gratuitous passenger was abandoned by the Appellant Insurance Company and that is why neither the Insurance policy was proved nor even a iota of evidence was produced to prove that the deceased was a gratuitous passenger.

5. In the circumstances, no fault can be found with the impugned judgment holding the Appellant Insurance Company liable to indemnify the insured as the vehicle was duly insured.

6. The Appeal, therefore, has to fail; the same is accordingly dismissed.

7. The statutory deposit of Rs. 25,000/- shall be refunded to the Appellant Insurance Company. Pending Applications also stand disposed of.

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