

(2003) 05 P&H CK 0082

High Court Of Punjab And Haryana At Chandigarh

Case No: First Appeal from Order No. 1159 of 2002

National Insurance Company
Limited

APPELLANT

Vs

Gulab Singh and Others

RESPONDENT

Date of Decision: May 2, 2003

Acts Referred:

- Motor Vehicles Act, 1939 - Section 166

Citation: (2003) 2 ACC 751 : (2005) ACJ 241 : (2003) 134 PLR 551 : (2003) 3 RCR(Civil) 659

Hon'ble Judges: Viney Mittal, J; V.M. Jain, J

Bench: Division Bench

Advocate: R.M. Suri, for the Appellant; Kuldip Singh, for Respondent Nos. 3 and 4 and Jitindra Chauhan, for the Respondent

Final Decision: Allowed

Judgement

V.M. Jain, J.

This order shall dispose of F.A.O. Nos. 1159 and 1160 of 2002, as both the appeals have arisen against the same award of the Motor Accident Claims Tribunal, vide which compensation was awarded to the claimants in a motor vehicular accident.

2. While awarding the compensation amount, it was found by the learned Tribunal that the injured/deceased were traveling in a goods vehicle. However, the learned Tribunal had held that Insurance Company jointly and severally liable to pay the compensation amount to the claimants, placing reliance on the law laid down by the Hon'ble Supreme Court in the case reported as New India Assurance Company v. Sat Pal Singh and Ors., (2000-1)124 P.L.R. 464 (S.C.). Aggrieved against the said award of the learned Tribunal, Insurance Company filed these appeals in this Court. Notice of motion was issued in both the appeals.

3. We have heard the learned counsel for the parties and have gone through the record carefully.

4. Learned counsel appearing for the appellant-Insurance Company has submitted that Satpal's case (supra) has since been reversed by a larger Bench of the Hon'ble Supreme Court, in the case reported as New India Assurance Company Ltd. v. Asha Rani and Ors. (2003)133 P.L.R. 1 (S.C.), and as such the appellant-Insurance Company could not be liable to pay the compensation amount to the claimants since they were traveling in a goods vehicle. Learned counsel appearing for the respondents very fairly conceded that in view of the law laid down by the Hon'ble Supreme Court in Asha Rani's case (supra), vide which Satpal Singh's case (supra) has been over-ruled, appellant-Insurance Company would not be liable to pay the compensation amount to the claimants.

5. In view of the above, both the appeals are allowed. The award given by the Tribunal is modified to the extent that the appellant-Insurance Company would not be liable to pay the compensation amount to the claimants. The claimants would, however, be entitled to claim the compensation amount from the driver and owner of the offending vehicle, jointly and severally.