

Chameli and Others Vs Mukesh and Others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Nov. 3, 2000

Acts Referred: Motor Vehicles Act, 1988 " Section 165, 2, 95

Citation: (2002) 3 ACC 650

Hon'ble Judges: S.S. Sudhalkar, J; N.K. Sodhi, J

Bench: Division Bench

Judgement

S.S. Sudhalkar, J.

An accident had taken place in which person sitting on the tractor fell down from it and was crushed under the wheel of the tractor-trolley which proved fatal. The Tribunal had dismissed the claim petition filed by the dependant of the deceased relying on the judgment

of learned Single Judge in the case of The New India Assurance Company Limited Vs. Smt. Tarawati and Others, . In the said judgment it is

observed as under:

On consideration of the arguments of the Counsel for the parties, I find no substance in the arguments of respondents" Counsel. u/s 95 of the

Motor Vehicles Act, tractor has been defined as a vehicle not meant for carrying passengers. Otherwise also, it is a matter of common knowledge

that tractor is not meant for carrying passengers. Whosoever takes a ride on it, shall be doing so at his own risk. If some unfortunate occurrence

takes place, neither the driver nor its owner can be held liable and if the tractor is insured with the Insurance Company no liability on the Insurance

Company for the death of or injuries sustained in the accident, can be fastened on this account. In view of the provisions of the Motor Vehicles

Act, no liability could be fastened on the Insurance Company for the death of a person who was travelling on the tractor. The law is also further

settled that when a person is travelling on a vehicle which is not meant for carrying passengers, the Insurance Company is not liable.

(Emphasis supplied)

2. This case was referred to the Division Bench for decision on the following question:

Whether in an accident in which death of or an injury to a passenger being carried on a tractor is caused, the claimants can or cannot claim

compensation under the provisions of the Act from the driver and owner of the tractor.

3. When the matter came up for hearing none appeared for the parties. We have read facts of this case and gone through the judgment in the case

of New India Assurance Co. Ltd. v. Tarawati (supra), and also the judgment by which the matter was referred to the Division Bench.

4. Section 165 of the Motor Vehicles Act (hereinafter referred to as "the Act") is as under:

165. Claims Tribunals.--(1) A State Government may, by Notification in the Official Gazette, constitute one or more Motor Accident Claims

Tribunals (hereinafter in this Chapter referred to as Claims Tribunals) for such area as may be specified in the Notification for the purpose of

adjudicating upon claims for compensation in respect of accidents involving the death of, or bodily injury to, persons arising out of the use of motor

vehicles, or damages to any property of a third party so arising, or both.

(Emphasis supplied)

5. Therefore, if the accident had taken place and that was caused by the use of a motor vehicle, then the Tribunal shall have jurisdiction to entertain

the claim. Section 2(44) of the Act defines tractor as a motor vehicle which is not itself constructed to carry any load (other than equipment used

for the purpose of propulsion). This definition shows that tractor is a motor vehicle.

6. Section 2(28) of the Act defines motor vehicle as a vehicle which is mechanically propelled, adapted for use upon roads whether the power of

propulsion is transmitted thereto from an external or internal source. From these two definitions, it is clear that a tractor is a motor vehicle and if the

accident has taken place by use of a tractor then certainly Claims Tribunal will have jurisdiction.

7. Learned Single Judge in the case of New India Assurance Co. Ltd. v. Tarawati (supra), has observed that the tractor has been defined as a

vehicle not meant for carrying passengers and whosoever takes a ride on it, shall be doing so at his own risk. It is also observed by the learned

Single Judge in that case that if some unfortunate occurrence takes place, neither the driver nor its owner can be held liable. We do not agree with

the view taken by the learned Single Judge in the case of Tarawati (supra), in view of the above discussion regarding Sections 165, 2(44) and

2(28) of the Act. We, therefore, answer the question referred to by the learned Single Judge as under:

When an accident takes place resulting into death or injury to a passenger being carried on a tractor, claim can be maintained by the injured or the

dependants of the deceased (as the case may be) for compensation under the provisions of Motor Vehicles Act against the driver and owner of

the tractor.

8. This appeal shall now be listed before the regular Bench in due course.