

(2001) 02 P&H CK 0127

High Court Of Punjab And Haryana At Chandigarh**Case No:** F.A.O. No. 409 of 1986 (O and M)

Oriental Insurance Co. Ltd.

APPELLANT

Vs

Smt. Rajinder Kaur

RESPONDENT

Date of Decision: Feb. 16, 2001**Acts Referred:**

- Motor Vehicles Act, 1988 - Section 147

Citation: (2002) ACJ 827 : (2001) 4 RCR(Civil) 206**Hon'ble Judges:** R.L. Anand, J**Bench:** Single Bench**Advocate:** Mr. Sanjiv Pabbi, for the Appellant; Mr. K.S. Ahluwalia and Mr. O.P. Hoshiarpuri, for the Respondent

Judgement

R.L. Anand, J.

This FAO No. 409 of 1986 has been filed by M/s. Oriental Insurance Co. Ltd. and it has been directed against the award dated 10.1.1986, passed by the Court of Motor Accident Claims Tribunal, Rupnagar, who, awarded a sum of Rs. 1,20,000/- by way of compensation to the claimants i.e. respondents No. 1 to 4.

2. The facts in this case are not much in dispute but the dispute lies somewhere else regarding the extent of liability of appellant i.e. Oriental Insurance Co. Ltd. The Tribunal framed the issues in this case and issue No. 4 was to the effect that "whether the liability of respondent No. 3, if any, is limited to Rs. 50,000/- only ? OPR." While disposing of this issue, the learned Tribunal held as follows :-

"This issue has not been pressed by the learned Counsel for the respondent. The same is, therefore, adjudicated accordingly."

The grouse of the Insurance Company is that under the threat of the award, the Insurance Company is being directed to pay the entire amount of compensation to respondents No. 1 to 4.

3. I have heard Shri Sanjeev Pabbi, Advocate, appearing on behalf of the appellant, Shri K.S. Ahluwalia, Advocate, appearing on behalf of respondents No. 1 to 4 and Shri O.P. Hoshiarpuri, learned Counsel appearing on behalf of respondents No. 4 to 7, and with their assistance have gone through the record of this case for the disposal of the short controversy.

4. Before I deal with the submissions, I may make a mention that respondents No. 5 to 7 have already deposited the amount in the executing Court beyond Rs. 50,000/-.

5. Learned counsel appearing on behalf of the appellant submitted that the lawyer of the Insurance Company who appeared before the trial Court never stated before the Court that he did not want to contest issue No. 4, while the learned Counsel appearing on behalf of respondents No. 5 to 7 submits that since issue No. 4 has not been pressed by the Insurance Company, therefore, the Insurance Company is liable to pay the entire amount of compensation. I am of the opinion that the finding of the Tribunal on issue No. 4 cannot be sustained in the eyes of law. If the lawyer of the Insurance Company has ever made a statement before the Tribunal that he did not want to address any argument on issue No.4, the Tribunal should have recorded the statement of the lawyer to this effect.

6. Be that as it may, it is the basic principle of law that there cannot be any estoppel against the law. Under the policy and the law, the liability of the Insurance Company was limited to the extent of Rs. 50,000/-, therefore, the Insurance Company cannot be directed to pay the compensation beyond Rs. 50,000/- and this proposition of law is fully borne out from the submission of learned Counsel for respondent Nos. 5 to 7.

7. In this view of the matter, this appeal stands disposed of with the observation that Insurance Company shall pay only Rs. 50,000/-, as per the Insurance policy. The rest of the amount of compensation shall be paid by the owner/driver jointly and severally to the claimants. There shall be no order as to costs.

8. Appeal disposed of.