Subal Chandra Gope Vs Motor Accident Claim Tribunal and Others

M.A. (F) No. 18 of 1997

Court: Gauhati High Court

Date of Decision: May 13, 2002

Acts Referred:
Motor Vehicles Act, 1988 â€" Section 147

Citation: (2003) 2 ACC 499 : (2002) 2 GLT 593

Hon'ble Judges: Iqbal Ahmed Ansari, J

Bench: Single Bench

Advocate: P. Mahanta, B.B. Narzary and S. Chouhan, for the Appellant; J. Singh, for the Respondent

Final Decision: Dismissed

Judgement

I.A. Ansari, J.
Notwithstanding the embargo placed by Clause (b) of Sub-section (2) of Section 147 of the Motor Vehicles Act, 1988,

whether an insurer"s comprehensive policy covering a vehicle makes it liable to pay, in respect of damage caused to any property of a third party,

compensation of more than Rs. 6,000 is the question, which this appeal, preferred against the judgment and award, dated 4.10.1996, passed, in

MACT Case No. 30/1984, by learned Member, Motor Accident Claims Tribunal, Sonitpur, Tezpur, raises.

2. Briefly stated, the facts giving rise to this appeal may be stated thus : Respondent No. 3 made an application before the learned Tribunal seeking

compensation of an amount of Rs. 77,495 for the damage caused to their vehicle belonging to the Union of India as a result of an accident.

According to the claimant, on 2.3.1984 at about 11.15 AM, while their vehicle (a truck) was proceeding from the direction of Railway Station, a

bus bearing registration No. ASD-9695, which was coming from the opposite direction driven rashly and negligently, collided against the said

truck causing damage thereto. The said bus stood insured with the respondent No. 2, namely, M/s. New India Assurance Company Limited.

3. The owner of the said vehicle, its driver and also insurer were impleaded as parties. They contested the case.

4. Having received the evidence adduced by the contesting parties, learned Tribunal came to the conclusion that the said accident took place due

to rash and negligent driving of the said bus by its driver. Learned Tribunal also came to the conclusive that the loss sustained by the claimant for

the damage caused to the vehicle was to the tune of Rs. 56,360. The Tribunal accordingly delivered the award on 14.10.1996.

5. In view, however, of the fact that in respect of damage caused to the property of a third Parry, Section 147(2)(b) of the said Act limits the

liability of an insurer to the payment of Rs. 6,000 only, the Tribunal held that the insurer was liable to pay Rs. 6,000 to the claimant and the

remaining amount of Rs. 50,360 shall be paid by the present appellant as owner of the said bus. The parties concerned were directed to make

payment of the compensation amount so fixed within a period of 2 months from the date of the award failing which, the awarded amount was to

carry interest @ 6% per annum from the date of the order.

6. I have carefully perused the impugned award and also the materials on record. I have heard Mr. P. Mohanta, learned counsel for the appellant,

and Mr. J. Singh, learned Senior Advocate, who has appeared on behalf of the respondent No. 2.

7. It has been submitted, on behalf of the appellant, that since the relevant insurance policy was a comprehensive policy, leaned Tribunal was

incorrect in imposing on the insurer liability of Rs. 6,000 only for the damage caused to the property of the third party and that the entire

compensation amount ought to have been directed to be paid by the respondent No. 2.

8. Apart from the fact that the relevant insurance policy could not be produced by the claimant before this Court, Mr. Mohanta could not submit

any material before this Court to show that an insurer liability is unlimited notwithstanding the limited liability imposed by Section 147(2)(b) of the

said Act.

9. Be that as it may, it is clear from a bare reading of Section 147 that this Section separates the liability of an insurer into two parts, namely,

Clause (a) and Clause (b). While Clause (a) makes the insurer, in cases of death and injury of persons, liable to pay the amount of liability incurred

under the relevant policy of insurance, Clause (b) make it clear that for the damage caused to any property of a third party, insurer''s liability is

limited to an amount of Rs. 6,000. If any contract entered into between the insurer and the insured exceeds the limit imposed by Clause (b), then,

the burden rests on the person, who marks such a claim, to prove that the restriction imposed under Clause (b) does not apply to his or her case.

10. In the case at hand, in the face of complete absence of materials pointing to the contrary, it can be safely held, and I do hold, that even in the

instant case, liability of the respondent No. 2, as insurer of the offending vehicle, was limited to a sum of Rs. 6,000 for damage caused to the

vehicle of the claimant and the learned Tribunal committed no error in imposing liability of making good the payment of the remaining awarded

amount of Rs. 50,360 on the appellant as owner of the offending vehicle. This appeal is, therefore, devoid of any merit and it is hereby dismissed.

No order as to costs.