

(2004) 08 MP CK 0032

Madhya Pradesh High Court

Case No: Miscellaneous Appeal No. 1457 of 2001

United India Insurance Company
Ltd.

APPELLANT

Vs

Ku. Savita Dhurve and Others

RESPONDENT

Date of Decision: Aug. 12, 2004

Acts Referred:

- Central Motor Vehicles Rules, 1989 - Rule 3
- Motor Vehicles Act, 1988 - Section 168, 173

Citation: (2004) 4 MPHT 250

Hon'ble Judges: Shahi Kant Kulshreshtha, J; Rajeev Gupta, J

Bench: Division Bench

Advocate: S.K. Rao and Ajit Agrawal, for the Appellant; N.P. Gupta, for the Respondent
No. 1 and Pramod Thakre, for the Respondent No. 2, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

1. With the consent of the parties, this appeal was finally heard as it raises a singular contention.
2. This appeal is directed against the award dated 9-7-2001 of the Motor Accident Claims Tribunal, Chhindwara passed in Claim Case No. 35/99 by which the Tribunal has awarded a sum of Rs. 68,072/- as against the sum of Rs. 5,00,000/- claimed as compensation for the 100% permanent disability received in the lower limbs in an accident.
3. It is not disputed before us that the accident occurred on 17-6-98 when the respondent No. 1 Ku. Savita Dhurve aged about 24 years was travelling in a bajaj tempo bearing registration No. MP 28-T-0339. It was stated that the driver of the vehicle suddenly jumped and abandoned the vehicle with the result the accident

occurred resulting in serious injuries. Though prompt treatment was administered but the injuries to the back bone had the consequent effect of paralysis of both legs to the extent of 100%. Thus, the respondent No. 1 Savita has sustained 100% permanent disablement of both legs for which she has been awarded Rs. 68,072/-.

4. The contention raised by the learned Counsel for the Insurance Company (appellant) is that the Insurance Company should not have been saddled with the liability as the driver of the offending vehicle possessed only a learner's licence and was, therefore, not covered by the conditions of the policy. In this behalf, evidence was led by examining Mahadev Prasad (NAW 1), who deposed that Asharam s/o Rekhanlal, resident of Sirgora, was issued only a learner's licence on 9-6-98 and permanent licence is issued after 30 days thereof. On the basis of this evidence, it is contended by the Counsel for the Insurance Company that on 17-6-98, when the accident occurred, the driver possessed only a learner's licence. The surname and the village mentioned by NAW 1 of the person to whom that learning licence was given do not tally with the surname and the village in which the respondent driver resides and, therefore, it is doubtful whether the evidence with regard to the licence tendered through NAW 1 relates to the same person who was driving the offending vehicle. The driver of the vehicle has been examined as NAW 2 Asharam, who has categorically alleged that he holds a permanent licence which has been taken away by the Finance Company. The doubt with regard to the licence apart, we have examined the cover note issued by the Insurance Company, of which a copy has been placed on record of the case. The cover note clearly covers the liability even in respect of a person holding an effective learner's licence who satisfies the requirement of Rule 3 of the Central Motor Vehicle Rules, 1989. Thus, the stand of the Company that the policy does not cover the risk if the vehicle is driven by a person holding a learner's licence, is demolished by the cover note itself. The appellant has also not led any evidence to suggest that it was in violation of Rule 3 of the Central Motor Vehicle Rules that he was driving the offending vehicle. Thus, examined from any perspective, we find that no case calling for any interference in this appeal has been made out.

5. This appeal is without any merit or substance. It is, accordingly, dismissed but with no order as to costs.