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Court : Rajasthan

Decided On : Aug-08-2005

Reported in : IV(2005)ACC265

Judge : Vineet Kothari, J.

Appellant : Kailashi Devi and ors.

Respondent : Srinaraln and ors.

Judgement :

Vineet Kothari, J.

1. This appeal is directed against the order of the learned Motor Accident Claims Tribunal, Dausa (for short 'the Tribunal') dated 30.8.1993 rejecting the claim application of the claimants.

2. The Tribunal in the impugned order has held that the tractor RND 9210 and tractor trolley RNB 8472, whose owners are respondent Nos. 1 and 2, was registered only for carrying out the agricultural operations and since in the accident which occurred on 29.3.85 at 10.00 a.m. in which deceased Laxmi Narain was riding on the said tractor trolley on payment on hire charges at Re. 1 per passenger and who died on account of the said tractor trolley turning turtle on account of rash and negligent driving by the driver of the said vehicle and for the death of Laxmi Narain, the Insurance Company could not be held liable for such

user of motor vehicle in violation of the policy condition.

3. Learned Counsel for the Insurance Company appearing in the matter has cited before me the judgment of Hon'ble Supreme Court in case of National Insurance Co. Ltd. v. V. Chinnamma and Ors. III (2004) ACC 1 (SC) wherein the Hon'ble Supreme Court in similar circumstances denied the claim by allowing the appeal of the Insurance Company.

Paras 16 and 17 of the said judgment is reproduced herein for ready reference:

16. A tractor fitted with a trailer may or may not answer the definition of goods carriage contained in Section 2(14) of the Motor Vehicles Act. The tractor was meant to be used for agricultural purpose. The trailer attached to the tractor, thus, necessarily is required to be used for agricultural purposes, unless registered otherwise. It may be, as has been contended by Mrs. K. Sharda Devi, that carriage of vegetables being agricultural produce would lead to an inference that the tractor was being used for agricultural purposes but the same by itself would not be construed to mean that the tractor and trailer can be used for carriage of goods by another person for his business activities. The deceased was a businessman. He used to deal in vegetables. After he purchased the vegetables, he was to transport the same to market for the purpose of sale thereof and not for any agricultural purpose. The tractor and trailer, therefore, were not being used for agricultural purposes. However, even if it be assumed that the trailer would answer the description of the 'goods carriage' as contained in Section 2(14) of the Motor Vehicles Act, the case would be covered by the decisions of this Court in Asha Rani (supra), and other decisions following the same, as the accident had taken place on 24.11.1991, i.e., much prior to coming into force of 1994 amendment.

17. For the reasons aforementioned, the impugned judgments cannot be sustained which are set aside accordingly. This appeal is allowed. In the facts and circumstances of this case, there shall be no order as to costs.

4. However, the Tribunal has not given any reasons for not deciding the Issue No. 3 which was relating to award of compensation against the owners of the said tractor and trolley. Even if the Insurance Company cannot be held liable in view of

the aforesaid position of law, there is no reason why the owner and driver of the said tractor cannot be held liable to pay the said compensation in favour of the claimants on account of the death of Laxmi Narain.

5. Since the Tribunal has not given any finding in this regard on Issue No. 3, the matter is remitted back to the Tribunal for deciding the Issue No. 3 again.

6. With these observations, this appeal is disposed of. No order as to costs.

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