

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).4203-4204/2005

(From the judgement and order dated 01/10/2004 in MA No. 16/1993 & MA No. 291/1992 of The HIGH COURT OF M.P AT GWALIOR)

CHANDAN SINGH RAGHUVANSHI

Petitioner(s)

VERSUS

RAMESHWARI BAI & ORS.

Respondent(s)

(With appln. for vacation if order dt.18.2.2005 and directions)

(For final disposal)

Date: 07/02/2007 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. MATHUR

HON'BLE MR. JUSTICE P.K. BALASUBRAMANYAN

For Petitioner(s) Mr. Aruneshwar Gupta,Adv.

For Respondent(s) Dr. Manish Singhvi, Adv.

Mr. P.V. Yogeswaran,Adv.

Mr. Suryanarayana Singh, Adv.

Mr. Pragati Neekhara, Adv.

Mr. Dharmendra Kumar Sinha ,Adv

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

The appeal is dismissed with no order as to costs.

[ Usha Bhardwaj ]

[ Neeru Bala Vij ]

Court Master

Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.....2007

(Arising out of SLP(Civil) Nos.4203-4204 of 2005

Chandan Singh Raghuvanshi

...Appellant(s)

Versus

Rameshwari Bai & Ors.

...Respondent(s)

O R D E R

Leave granted.

This appeal is directed against the order passed by the

Division Bench of the Madhya Pradesh High Court, Jabalpur

Bench at Gwalior by the order dated 1/10/2004 whereby the

High Court disposed of both the appeals by allowing the appeal of the Insurance Company and dismissing the appeal of the owner.

The brief facts of the case are that on 9.12.90 at about 12.00 in the noon, Chandansingh owner and driver of the tractor No.MKH 4867 were travelling on a tractor from village Dhampur to Guna. The tractor was attached with a trolley. Ramchandra was permitted to sit in the trolley of the tractor for the purpose of agriculture operation by Chandansingh. It is alleged that the tractor was driven in a rash and negligent manner by Chandansingh. He could not control the tractor and the tractor dashed against a tree and trolley overturned, as a result of which

:2:

Ramchandra was thrown from the trolley and was crushed by the trolley. Hence the Claim Petition was filed and the Tribunal recorded a finding that the tractor was driven in a rash and negligent manner which resulted in the accident causing death of Ramchandra. The Tribunal further held that the claimants are entitled to receive compensation from the owner and driver of the tractor and absolved the insurance company. It is also found that the tractor was driven in violation of the terms of the insurance policy and the insurance company is not liable to

pay the compensation.

The Insurance Company only filed a limited appeal that the insurance company is entitled for refund of the amount of Rs.25,000/- deposited by it towards "no fault liability". The appellant filed an appeal against the order passed by the Tribunal and pleaded that the deceased was not travelling in the tractor. He without informing the driver of the tractor climbed in the trolley and sat in the trolley. No permission was given by the driver of the tractor to sit in the trolley. Therefore, the driver of the vehicle is not responsible for the accident. The submission was considered by the High Court and the High Court after considering the matter came to the conclusion that the deceased was travelling in the trolley as a gratuitous passenger, therefore, the insurance company is

:3:

not liable to pay the compensation which was determined at Rs.1,67,400/-. Accordingly, the matter was decided by the High Court. It allowed the appeal of insurance company and directed the insurance company to seek recovery of the amount of Rs.25,000/- paid by the insurance company towards "no fault liability" from the owner.

Aggrieved by this the present appeal is filed. We have considered the submission of the appellant and perused the record. In view of the decisions of this Court in 2003 (2) SCC 223 New India Assurance Co. Ltd. vs. Asha Rani & Ors. and 2003 (2) SCC 339 Oriental Insurance Co, Ltd. vs. Devi Reddy Kanda Reddy & Ors. this Court has now put the whole controversy at rest that the gratuitous passengers travelling in vehicle are not entitled to be compensated. The Insurance Company is not liable to compensate the third party claim of such gratuitous passengers. This Court in 2003 (2) SCC 339 has now taken a view that the persons travelling in the goods carriage are not entitled to be compensated by the Insurance Company. Similarly in the case of New India Assurance Co. Ltd. vs, Asha Rani & Ors. 2003 (2) SCC 223 similar view has been taken by this Court that the policy does not cover such passengers and the holder of policy is not liable to be compensated by the insurance company

:4;

for such passengers. Hence the view taken by the Division Bench of the High Court is correct and there is no ground to interfere in this appeal.

The appeal is dismissed for the reasons mentioned above.

There shall be no order as to costs.

.....J.

[A.K. MATHUR]

.....J.

[P.K. BALASUBRAMANYAN)

New Delhi,

February 7, 2007.