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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5206 OF 2004

NATIONAL INSURANCE CO. LTD.

APPELLANT

VERSUS

UPPARA THIPPAKKA AND ORS.

RESPONDENTS

O R D E R

Heard Ms. Pankaj Bala Verma, counsel appearing for the appellant.

No one appears for the respondents despite service of notice.

This appeal arises from a motor accident claim. The husband of the claimant, respondent No.1, died in a motor accident while travelling on a tractor trolley, a goods vehicle, as a gratuitous passenger. Nevertheless, the Tribunal held that the Insurance Company, the appellant was liable to make payment of the amount of compensation as determined by it.

In appeal, the High Court affirmed the order passed by the Tribunal. In holding the Insurance Company liable to pay the compensation, the High Court relied upon a decision of this Court in *New India Assurance Company vs. Satpal Singh & Ors.*, 2000 (1) SCC 237. The decision rendered in *Satpal Singh's* case (*supra*) was later overruled by a three-judge bench decision of this Court in *New India Assurance Co. vs. Asha Rani*, (2003) 2 SCC 223, in which it was held that the insurance policy did not extend to a gratuitous passenger travelling on a goods vehicle and hence, no liability should attach to the Insurance Company.

The legal issue must, therefore, be decided in favour of the appellant and it must be held that the High Court was in error in holding the appellant liable to pay the compensation.

We find that in terms of interim directions earlier given by this Court, the appellant has deposited the compensation amount before the Registry of this Court. However,

the amount so deposited was not allowed to be withdrawn by the claimants and it remains in deposit before the Registry.

In similar circumstances, in National Insurance Company Limited vs. Kaushalaya Devi And Others, (2008) 8 SCC 246, it was held that if the deposited amount was not allowed to be withdrawn by the claimants, it should be refunded to the Insurance Company and proceedings for realisation of the compensation amount may be initiated against the owner of the vehicle.

In light of the decision in Kaushalaya Devi's case (supra), the appellant must be allowed to withdraw the amount deposited by it in the Registry of this Court. The appellant may do so.

It will be open to the claimants to initiate the recovery proceedings against the owner of the vehicle.

The appeal is, accordingly, allowed. No order as to costs.

.....J.
(R.M. LODHA)

.....J.
(AFTAB ALAM)

NEW DELHI,
JULY 28, 2010.
ITEM NO.112

COURT NO.12

SECTION XIIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 5206 OF 2004

NATIONAL INSURANCE CO. LTD.

Appellant (s)

VERSUS

UPPARA THIPPAKKA AND ORS.

Respondent(s)

Date: 28/07/2010 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AFTAB ALAM
HON'BLE MR. JUSTICE R.M. LODHA

For Appellant(s)

Ms. Pankaj Bala Verma, Adv.
For Ms. Kiran Suri, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following
O R D E R

The appeal is allowed in terms of the
signed order.

(Neetu Khajuria)
Sr. P.A.

(R.K. Sharma)
Court Master

(Signed order is placed on the file.)