

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).4356/2007

(From the judgement and order dated 26/10/2006 in FAO No. 4866/2006 of the  
HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

NEW INDIA ASSURANCE CO. LTD.

Petitioner(s)

VERSUS

BAIKUNTHI DEVI &amp; ORS.

Respondent(s)

(With prayer for interim relief and office report)

WITH

SLP(C) NO. 5457 of 2007

(With prayer for interim relief and office report)

SLP(C) NO. 5458 of 2007

(With prayer for interim relief and office report)

SLP(C) NO. 5459 of 2007

(With prayer for interim relief and office report)

SLP(C) NO. 5460 of 2007

(With prayer for interim relief and office report)

Date: 10/07/2008 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA

HON'BLE MR. JUSTICE CYRIAC JOSEPH

For Petitioner(s) Mr. Pankaj Seth,Adv.  
Ms. Manjeet Chawla,Adv.For Respondent(s) Mr. Rajeshwar Dagar,Adv.  
Mr. M.A. Chinnasamy,Adv.

Mr. A.D. Sikri,Adv.

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UPON hearing counsel the Court made the following  
ORDER

Leave granted.

The impugned judgment is set aside, the matter is remitted to  
the High Court for consideration thereof afresh on merit and the  
appeals are disposed of in terms of the signed order.

(A.S. BISHT)  
COURT MASTER

(PUSHAP LATA BHARDWAJ)  
COURT MASTER

[Signed order is placed on the file]  
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4301 OF 2008  
[Arising out of SLP(C) No. 4356/2007]

NEW INDIA ASSURANCE CO. LTD. ... APPELLANT(S)

:VERSUS:

BIKUNTHI DEVI AND ORS. ... RESPONDENT(S)

WITH

CIVIL APPEAL NO. 4305 OF 2008  
[Arising out of SLP(C) No. 5457/2007]

CIVIL APPEAL NO. 4304 OF 2008  
[Arising out of SLP(C) No. 5458/2007]

CIVIL APPEAL NO. 4303 OF 2008  
[Arising out of SLP(C) No. 5459/2007]

CIVIL APPEAL NO. 4302 OF 2008  
[Arising out of SLP(C) No. 5460/2007]

ORDER

Leave granted in all the SLPs.

Having heard the learned counsel for the parties we are of the opinion that it was not a case warranting dismissal of the appeals, preferred by the appellants herein under Section 173(1) of the Motor Vehicles Act, 1988, in limine.

Learned counsel for the appellants submits that these matters are covered by the decisions of this Court in Smt. Thokchom Ongbi

Sangeeta @ Sangi Devi & Anr. vs. Oriental Insurance Co. Ltd. & Ors.,  
[2007 (12) SCALE 448] and

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National Insurance Co. Ltd. vs. Cholleti Bharatamma & Ors., [2007 (12) SCALE 560. Learned counsel appearing on behalf of the respondents on the other hand, submits that the facts of those cases are not similar to the facts of the instant case, particularly when at least a few persons were travelling in a truck in the cabin of the driver, who were owner of the goods.

We are, therefore, of the opinion that the evidence adduced by

the parties should be considered by the High Court inter alia in the light of the aforementioned two decisions of this Court. The impugned judgment is, therefore, set aside and the matter is remitted to the High Court for consideration thereof afresh on merit.

We request the High Court to consider the desirability of disposing of the appeals as expeditiously as possible, preferably within a period of eight weeks from the date of communication of this order.

Till the disposal of the appeals by the High Court, the award passed by the Motor Accident Claims Tribunal, Karnal, shall remain stayed.

The appeals are disposed of accordingly.

.....J

(S.B. SINHA)

.....J

(CYRIAC JOSEPH)

NEW DELHI,  
JULY 10, 2008.