

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGSPetition(s) for Special Leave to Appeal (Civil)...../2013
CC 7934/2013(From the judgement and order dated 20/11/2012 in MACAP No.4/2012, of The
HIGH COURT OF SIKKIM)

B.M., NEW INDIA ASSURANCE CO. LTD.

Petitioner(s)

VERSUS

NARMATI SUBBA & ORS.

Respondent(s)

(With appln(s) for c/delay in filing SLP and office report)

Date: 16/04/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

HON'BLE MR. JUSTICE J. CHELAMESWAR

For Petitioner(s)

Mr. K.K. Bhat, Adv.

Mr. Ranjan Kumar Pandey, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following

O R D E R

Learned counsel for the petitioner-insurance company submits that the LRs of the deceased owner of the vehicle are not entitled to any compensation whatsoever in view of Section 147 of the Motor Vehicles Act, 1988 as this provision envisages compensation only to the LRs of third party who suffers an accident and consequently dies. He specifically submitted that in case the owner of the vehicle meets with an accident and dies, no compensation is legally liable to be paid to the LRs of the deceased owner. In support of his submission, he relies upon some authorities which need to be examined as we find difficulty in accepting the contention that only the third party risk is covered with the result that the driver of the vehicle if he is a paid driver is entitled for compensation under the Workmen's Compensation Act, 1923 but if the owner of the vehicle is driving the vehicle meets with an accident and dies, he would not be entitled to any compensation whatsoever. Prima facie in our view, the Motor Vehicles Act basically covers the risk of the accident and has not been enacted merely to determine as to who are the persons who are entitled to compensation but also to cover the risk of accident and indemnify the claimants by way of compensation which cannot exclude the owner of the vehicle in view of the contractual liability of the insurer.

In view of the important question involved, we condone the delay in filing the special leave petition and grant leave in the matter. The matter be listed for final disposal on 10th September, 2013.

In the meantime, the appellant is directed to pay 1/4th of the compensation amount along with interest, which would not be less than Rs.6 lakhs but maybe more depending upon the final calculation. The amount calculated shall be paid to the respondents/LRs of the

deceased owner of the vehicle within a period of four weeks from today.

In addition, initial cost towards litigation expenses for this Court shall also be paid to the respondents to the extent of Rs.25,000/- by the appellant-insurance company within a period of four weeks. Notice thereafter be issued to the respondents regarding final disposal as indicated hereinabove.

(NAVEEN KUMAR)
COURT MASTER

(S.S.R. KRISHNA)
COURT MASTER