

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NOS.32399-32406/2013
(Arising out of CC Nos. 8485-92/2013)

RELIANCE GENERAL INSURANCE CO. LTD. ..Petitioner

Versus

SAT PAL AND ORS. ETC. ETC. ..Respondents

ORDER

1. Delay condoned in view of the reasons stated in the application.
2. These special leave petitions which were heard ex-parte at the stage of admission have been filed by the petitioner - insurance company assailing the judgment and order dated 1.6.2012 of the High Court of Punjab and Haryana at Chandigarh whereby the High Court was pleased to allow the batch of 8 appeals preferred by the claimants-respondents enhancing the amount of compensation along with interest and further held that the petitioner-insurance company was liable to satisfy the award.
3. The relevant factual details giving rise to these special leave petitions disclose that 9 claim petitions were preferred by the claimants before the Motor Accidents Claims Tribunal, Ambala (for short 'the tribunal') in the State of Haryana as 9 persons who were travelling on the vehicle being the Maxi Cab met with an accident on 11.7.2007 as a result of which 5 out of 9 passengers died and the remaining four sustained injuries due to which 9 claim petitions were filed by the claimants before the tribunal seeking compensation. The vehicle-Maxi Cab was admittedly insured with the petitioner-insurance company which was 'passenger carrying commercial vehicle package policy' and as the tribunal as also the High Court had been pleased to hold that the Maxi Cab was driven in a rash and negligence manner by the driver which admittedly was covered under the 'passenger carrying commercial vehicle package policy', the claimants raised the claim against the petitioner-insurance company. As per the cover note of the policy, the seating capacity of the vehicle was 9 + 1 and as per the terms of policy, the extent of liability of the insurance company was unlimited.
4. The Motor Accident Claims Tribunal, Ambala, however held that the offending vehicle was not having certificate of registration and, therefore, violated the terms and conditions of the insurance policy due to which the insurance company-petitioner was absolved of

the liability to pay compensation but the driver as also the owner of the vehicle were held liable to satisfy the award of the tribunal which allowed the claim petition and awarded the compensation given herein as under:-

Sl. No.	Death/injuries sustained.	Compensation awarded.
1.	Death of Poonam	Rs.4,41,500/-
2.	Death of Nirmala	Rs. 3,69,500/-
3.	Death of Omwati	Rs. 2,97,500/-
4.	Death of Ashish	Rs. 2,00,500/-
5.	Death of Lal Bahadur	Rs. 3,72,500/-
6.	Injuries sustained by Priya	Rs. 50,000/-
7.	Injuries sustained by Anu	Rs. 1,00,000/-
8.	Injuries sustained by Rakesh Kumar	Rs. 1,50,000/-
9.	Injuries sustained by Ajay Kumar	Rs. 3,00,000/-

5. Aggrieved by the order of the tribunal, a bunch of eight appeals were filed in the High Court primarily on the point of quantum and liability. Some of the appellants specifically contended that the petitioner -insurance company should not have been exonerated and should have been held liable to pay the compensation and thereafter may recover the amount from the driver and the owner of the vehicle. In addition, several other appeals which were preferred by the claimants assailed the award on the point of quantum and claimed enhancement of the amount of compensation but no appeal had been preferred by the petitioner-insurance company before the High Court which is reflected from the impugned judgment and order of the High Court obviously as it was exonerated from the liability to pay the compensation.

6. The High Court was pleased to modify the award passed in favour of the claimants by enhancing the amount along with interest at the rate of 7.5 per cent per annum from the date of filing of the appeal in the High Court till its realization and it was further held that in view of the policy being 'passenger carrying commercial vehicle package policy' the liability of the petitioner was unlimited and the petitioner-insurance company was held liable to pay the compensation.

7. The petitioner-insurance company feeling aggrieved with the judgment and order of the High Court has filed these special leave petitions assailing the order of the High Court wherein learned counsel on behalf of the petitioner-insurance company submitted that it was not liable to pay the compensation to all the claimants as there was no contractual liability to indemnify the owner of the vehicle by paying compensation to all the claimants of the nine victims of the accident as the Maxi Cab was overloaded when it met with an accident and the liability according to him is not unlimited.

8. However, we find no substance in the aforesaid plea as the counsel for the petitioner-insurance company is ignoring the vital part of the policy of insurance that although the vehicle might have been overloaded with passengers, the insurance policy was a package policy for commercial vehicle which specified the seating capacity of nine plus one from which it would be reasonable to infer that the Petitioner Insurance Company is liable to pay at least for nine plus one passenger in the event the vehicle met with an accident. Considering the nature of policy, the view taken by the High Court that the insurance policy being a policy covering the risk of passengers travelling on a commercial vehicle which was a package policy, the petitioner-insurance company could not be absolved of the liability to compensate to the claimants of nine passengers, cannot be questioned. The admitted fact of the matter is that even if there were more passengers which overloaded the bus at the time of accident, only nine claim petitions were filed which was clearly in terms of the policy. The petitioner-insurance company, therefore, has rightly not been exonerated from satisfying the award and cannot be allowed to contend in general that the policy was confined to paying compensation to the third party only overlooking that even though it might have been liable to pay compensation to a limited number of passengers, it was certainly liable to pay to at least nine of them which number was

Date: 22/04/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE GYAN SUDHA MISRA
HON'BLE MR. JUSTICE J. CHELAMESWAR

For Petitioner(s) Ms. Prerna Mehta, Adv.

For Respondent(s)

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

Delay condoned in view of the reasons stated in the application.
The special leave petitions are dismissed in terms of the signed order.

|(Neetu Khajuria)
|Sr.P.A.

|(Sneh Bala Mehra)
|Court Master

|

(Signed order is placed on the file)
