

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). 6548 OF 1999

NATIONAL INSURANCE CO.LTD.

Appellant (s)

VERSUS

PUJA ROLLER FLOUR MILLS (PVT) LTD.& ORS.

Respondent(s)

(With office report )

With appln. u/s 34-) of the CR.P.C. for making a complaint against the petitioner and with prayer for interim relief )

Date: 13/04/2005 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL

HON'BLE MR. JUSTICE H.K. SEMA

For Appellant(s)

Mr. P.P. Malhotra, Sr. Adv.

Mr. Vineet Malhotra, Adv.

Mr. Rajiv Nanda, Adv.

For Respondent(s)

Mr. Vishal Malik, Adv.

No. 1 Mr. Mahinder Singh Dahiya, Adv.

No.2-4 Mr. Anant Vijay Palli, Adv.

Mrs. Rekha Palli ,Adv

Mrs. Shubra Singh, Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard learned counsel for the parties.

The appeal is allowed, impugned orders passed by the Division

Bench as well as the learned Single Judge of the High Court directing

that

liability of the insurance company shall be unlimited are set aside and order passed by the Tribunal limiting the liability of the insurance company to Rs. 1,50,000/- is restored. It is needless to say that the insurance company shall be liable to recover the amount in excess of Rs. 1,50,000/- awarded by it to the claimants from owner of the vehicle. No costs.

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[ Signed order is placed on the file ]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6548 OF 1999

National Insurance Co. Ltd. .. Appellant(s)

)

Versus

Puja Roller Flour Mills (Pvt.) Ltd. & Ors. .. Respondent(s)

s)

O R D E R

Heard learned counsel for the parties.

dated

The Motor Accidents Claims Tribunal [for short the Tribunal] by its award

15.9.1994 fixed the compensation at Rs. 6,72,000/- and directed that as according to the terms

of the insurance policy the liability of the insurance company was limited to the extent of Rs

1,50,000/-, the claimants shall be entitled to recover a sum of Rs. 1,50,000/- only from the

insurance company and the balance amount of Rs. 5,22,000/- from the owner of the

vehicle.

Against the said order, when the owner of the vehicle filed an appeal before the High Court of Punjab & Haryana giving rise to First Appeal No. 303 of 1995 in which the High Court upheld the quantum of compensation but directed that liability of insurance company could not have been limited to Rs. 1,50,000/- but the same was unlimited one. Thereafter, the insurance company filed a Letters Patent Appeal before the High Court which has been dismissed.

Hence, this appeal by special leave.

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Learned counsel appearing on behalf of the appellant submitted that according to

the terms of the insurance policy the liability of the insurance company was to the extent of Rs.

1,50,000/- in accordance with the Motor Vehicles Act, 1939 ( herein after referred to as the old

Act )but now, under the Motor Vehicles Act, 1988 (hereinafter referred to as the new Act) the

liability of insurance company is unlimited. It has been submitted that in cases, where the

insurance policy issued under the old Act was subsisting on the date of passing of the new Act ,

a special provision has been made under proviso to Section 147 (2) of the new Act which lays

down that if any policy of insurance issued with any limited liability and in force, immediately

before the commencement of this Act, the same shall continue to be effective for a period of

four months after such commencement or till the date of expiry of such policy

whichever is

earlier. The new Act came into force on 1st July, 1989 and the accident had taken place on

29.9.1989 on which date the policy was effective. As the accident has taken place within the

period of four months and the policy was to expire thereafter, the date of accident being earlier

one in point of time, according to the proviso, the policy issued under the old Act shall continue

to be effective in the case in hand. Thus, in view of the proviso the liability of the appellant-

insurance company would be limited to a sum of Rs. 1,50,000/- only.

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Accordingly, the appeal is allowed, impugned orders passed by the Division Bench

as well as the learned Single Judge of the High Court directing that liability of the insurance

company shall be unlimited are set aside and order passed by the Tribunal limiting the liability

of the insurance company to Rs. 1,50,000/- is restored. It is needless to say that the insurance

company shall be liable to recover the amount in excess of Rs. 1,50,000/- paid by it to the

claimants from owner of the vehicle. No costs.

.....J[ B.

N. AGRAWAL ]

.....J [

H.K. SEMA ]

NEW DELHI ,

APRIL 13, 2005.