

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).1271/2010

(From the judgement and order dated 03/08/2009 in SBCMA  
No.891/2008 of The HIGH COURT OF RAJASTHAN AT JODHPUR)

NEW INDIA ASSURANCE CO.LTD.

Petitioner(s)

VERSUS

BIDAMI & ORS.

Respondent(s)

(With prayer for interim relief and office report )  
(For final disposal)

Date: 17/04/2014 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR  
HON'BLE MR. JUSTICE A.K. SIKRI

For Petitioner(s)

Mr. Vishnu Mehra, Adv.  
Ms. Sakshi Mittal, Adv.  
Mr. Pramod Dayal, Adv.

For Respondent(s)

Ms. Aishwarya Bhati, Adv.  
Ms. Sarjoli Mittal, adv.  
Mr. Amit Verma, Adv.  
Mr. Anshuman, Adv.

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

Leave granted.  
The appeal is allowed in terms of the signed  
order.

(Sukhbir Paul Kaur)  
Court Master

(Indu Bala Kapur)  
Court Master

(Signed order is placed on the file)  
IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4635 OF 2014  
(Arising out of S.L.P.(C) No.1271 of 2010)

NEW INDIA ASSURANCE COMPANY LIMITED

Appellant(s)

Versus

BIDAMI AND OTHERS

Respondent(s)

O R D E R

We have heard learned counsel for the

parties.

Leave granted.

Learned counsel for the appellant relies on judgment of this Court titled as National Insurance Company Limited versus Mastan and another reported in 2006 (2) SCC 641 in support of the submission that if both the remedies under the Motor Vehicles Act, 1988 and the Workmen's Compensation Act, 1923 are available, the respondents were required to opt for either one of the remedies. The respondents cannot claim compensation under both the acts.

In the aforesaid judgment, it is held as follows :-

"22. Section 167 of the 1988 Act statutorily provides for an option to the claimant stating that where the death of or bodily injury to any person gives rise to a claim for compensation under the 1988 Act as also the 1923 Act, the person entitled to compensation may without prejudice to the provisions of Chapter X claim such compensation under either of those Acts but not under both. Section 167 contains  
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a non obstante clause providing for such an option notwithstanding anything contained in the 1923 Act.

23. The "doctrine of election" is a branch of "rule of estoppel", in terms whereof a person may be precluded by his actions or conduct or silence when it is his duty to speak, from asserting a right which he otherwise would have had. The doctrine of election postulates that when two remedies are available for the same relief, the aggrieved party has the option to elect either of them but not both. Although there are certain exceptions to the same rule but the same has no application in the instant case."

In view of the above, the judgment of the High Court cannot be sustained.

In view of the above, we allow this appeal and set aside the judgment of the High Court.

.....J.  
(SURINDER SINGH NIJJAR)

.....J.  
(A.K. SIKRI)

New Delhi,  
April 17, 2014.