

2023 LiveLaw (SC) 725

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

A.S. BOPANNA; J., PRASHANT KUMAR MISHRA; J.

AUGUST 28, 2023

CIVIL APPEAL NOS.5459-5460 OF 2023 (@ SLP (C) No.4672-4673 OF 2019)

DHONDUBAI

versus

HANMANTAPPA BANDAPPA GANDIGUDE SINCE DECEASED THROUGH HIS LRS. & ORS.

Motor Accident Compensation Claims - When the claimant was travelling in the trailer which was not insured, the liability on the Insurance Company cannot be fastened - When a tractor and trailer are involved, both the tractor as well as the trailer are required to be insured - However, invoking Article 142 powers, Insurance Company directed to pay the amount awarded by the High Court as compensation with the accrued interest and recover the same from the owner of the vehicle.

(Arising out of impugned final judgment and order dated 21-09-2018 in FA No. 1491/2015 21-09-2018 in FA No. 1541/2015 passed by the High Court of Judicature at Bombay at Aurangabad)

For Petitioner(s) Mr. Shashibhushan P. Adgaonkar, AOR Mr. Omkar Jayant Deshpande, Adv. Mr. Rana Sandeep Bussa, Adv. Mrs. Pradnya S Adgaonkar, Adv.

For Respondent(s) Mr. A.K.De, Adv. Mr. Zahid Ali, Adv. Ms. Ananya De, Adv. Mr. Pramit Saxena, AOR

J U D G M E N T

Leave granted.

Heard learned counsel for the parties and perused the appeals papers.

The appellant/claimant is before this Court seeking payment of the compensation in respect of the injuries suffered in the accident. The Motor Accidents Claim Tribunal (For short 'MACT') at the first instance, through its judgment dated 27.02.2015 had awarded the sum of Rs. 1,78,500/- with interest at 6% per annum. The High Court has enhanced the compensation to Rs.9,99,280/with interest @ 9% per annum through its judgment dated 21.09.2018.

However, the High Court on taking note that the claimant was travelling in the trailer attached to the tractor, which was not insured though tractor was insured, has exonerated the Insurance Company. It is in that light, the appellant is before this Court.

In a matter of the present nature, the law is well settled that when a tractor and trailer are involved, both the tractor as well as the trailer are required to be insured. Therefore, in a normal circumstance, when the appellant/claimant was travelling in the trailer which was not insured, the liability on the Insurance Company cannot be fastened and to that extent the High Court was justified.

However, the question for consideration herein is as to whether in the peculiar facts and circumstances arising in this case, this Court is required to exercise the power under Article 142 of the Constitution of India to direct the Insurance Company to pay the amount and recover the same from the owner of the vehicle. In that regard, the position is no more res-integra in view of the consideration made by this Court in the case of ***Oriental Insurance Company Ltd. Vs. Brij Mohan & Ors. reported in (2007) 7 SCC 56.*** This Court in a similar circumstance where the trailer did not have insurance, has exercised the power under Article 142 taking into consideration the difficult circumstances in which the claimant therein was placed.

If the said decision is taken note and the instant facts are taken into consideration, it is noticed that the claimant a lady who was working as a labourer and was travelling in the tractor attached to the trailer, was about 20 years old as on the date of the accident. Due to the injuries suffered in the accident she had also undergone amputation of her left lower limb above the knee joint. Therefore, apart from the disability being 100%, there is prejudice to the marriage prospects and to lead a normal life. In such circumstance, it would not be possible for the claimant to recover the amount from the owner. Therefore, in that circumstance, we direct that the respondent-Insurance Company shall pay the amount awarded by the High Court as compensation with the accrued interest and recover the same from the owner of the vehicle. The amount shall be deposited before the MACT within six weeks from the date of receipt of a copy of this judgment whereupon the amount shall be disbursed to the claimant.

The appeals are, accordingly, disposed of.

Pending application(s) shall also stand disposed of.

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