

+ **MAC.APP.No.223/2007**Date of Decision: 20th November, 2009

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NATIONAL INSURANCE CO.LTD. Appellant
Through : Mr. Amit Kumar Pandey,
Adv.

versus

GEETA & ORS. Respondents
Through : Mr. Manohar Lal, Adv.

CORAM :-
THE HON'BLE MR. JUSTICE J.R. MIDHA

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| 1. | Whether Reporters of Local papers may be allowed to see the Judgment? | NO |
| 2. | To be referred to the Reporter or not? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

JUDGMENT (Oral)

1. The appellant has challenged the award of the learned Tribunal whereby compensation of Rs.4,50,000/- has been awarded to claimants/respondents No.1 to 5.

2. The accident dated 2nd June, 2004 resulted in the death of Ram Sewak. The deceased was survived by his widow, son, daughter and parents who filed the claim petition before the learned Tribunal.

3. The only ground urged by learned counsel for the appellant at the time of hearing of this appeal is that the appellant is not liable to pay any compensation because the insurance policy in question was cancelled before the

accident due to dishonour of the cheque towards the premium.

4. The appellant produced the witness R3W1 before the learned Tribunal who deposed that the cheque towards the premium by the insured was dishonoured due to insufficient funds. The copy of the cheque and the cheque return memo were exhibited as Ex.R3W1/3 and Ex.R3W1/4. After the dishonour of the cheque, the appellant intimated the insured on 14th May, 2004 and the policy was cancelled vide Ex.R3W1/6 (colly.).

5. The accident occurred on 2nd June, 2004. Admittedly, the appellant has intimated the Road Transport Authority after the cancellation of the policy. The learned Tribunal has held that the liability of the Insurance Company continues towards the third Party till the intimation is given to the Road Transport Authority.

6. The learned Tribunal has granted the recovery rights to the owner and driver of the offending vehicle to recover the award amount from the insured.

7. There is no infirmity in the findings of the learned Tribunal.

8. The appeal is, therefore, dismissed.

9. The appellant has deposited the entire award amount with the learned Tribunal in terms of the order dated 6th April, 2009. The original FDRs have been retained by the learned Tribunal. The learned Tribunal is directed to release

the original FDRs to claimants/respondents No.1 to 5 in terms of its award.

10. The statutory amount of Rs.25,000/- be refunded back to the appellant through counsel within a period of four weeks.

11. Copy of this order be given 'Dasti' to learned counsel for both the parties under signature of Court Master.

NOVEMBER 20, 2009
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J.R. MIDHA, J