

**HIGH COURT OF JAMMU AND KASHMIR AT  
JAMMU**

**CIMA No. 252/2005**

**CMP no. 363/2005**

Date of Decision: **26.12.2008**

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***Oriental Insurance Co. Ltd.***

***Vs.***

***Rukma and ors***

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**CORAM:**

***MR. JUSTICE J. P. SINGH, JUDGE.***

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**Appearing Counsel:**

For Appellant(s) : Mr. R. K. Jain, Advocate.

For Responden(s) : Mr. B. S. Bali, Advocate.

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| i)  | Whether approved for reporting<br>in Press/Journal/Media | : <b>Yes/No</b> |
| ii) | Whether to be reported<br>in Digest/Journal              | : <b>Yes/No</b> |
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Oriental Insurance Company Limited has filed this appeal questioning Motor Accidents Claims Tribunal, Doda's award of October 27, 2004, directing it to pay an amount of Rs. 1,32,500/- along with interest at the rate of 9% per annum, to the claimants as compensation for the death of Tej Ram who had died while travelling in Matador bearing registration no. JK02C-3896, which had met with accident at Goli Bagh, Doda on November, 23, 1995.

At the time to hearing of this appeal, learned counsel for the parties were not at variance that appellant's plea of avoiding its liability to indemnify the owner, on the ground that the Matador had been driven with passengers beyond its sanctioned capacity, stood

concluded by two judgments of this Court in *Oriental Insurance Co. Ltd. vs. Allah Din and others*, and *Oriental Insurance Company Ltd. v. Dhanwanti Devi & ors* reported as 2007 (II) SLJ 897 respectively holding that the Insurance Company cannot avoid its liability on the ground that the vehicle involved in the accident had been plied with passengers beyond its permissible capacity.

In view of the aforementioned two judgments of this Court, appellant's plea that appellant was not liable to indemnify the owner and satisfy the award, is rejected as unsustainable.

No other point has been urged in support of the appeal.

This appeal, therefore, fails and is accordingly dismissed.

Registrar Judicial to release the amount deposited in this Court, in the appeal, in favour of the claimants, along with interest accrued thereon.

**(J. P. Singh)**  
**Judge**

**JAMMU**  
**26.12.2008**  
*Anil Raina, Secy.*