

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal from Order No. 39/2009

National Insurance Company Ltd.Appellant

Versus

Deepak & OthersRespondents

March 31, 2016

Hon'ble Servesh Kumar Gupta, J.

Mr. D.S. Patni, Advocate, for the appellant/National Insurance Company Ltd.

None appears on behalf of the claimants/respondents no. 1 to 8.

None appears for the respondent no. 9 (owner of the tractor trolley) and 12 despite the Vakalatnama of Advocate Mr. S.K. Chaudhary is available on the record.

Mr. G.C. Lakhchaura, Advocate, for the respondent no. 10.

Mr. M.K. Goyal, Advocate, for the respondent no. 11/New India Insurance Company Ltd., upon whom fifty per cent liability has been fastened.

Having heard and perused the impugned judgment, it transpires that the trailer (loaded with sugarcane) attached with the tractor was dashed from behind by the offending truck. It has been said that on account of this dashing, the trailer overturned. The deceased Amar Singh, a 19 years' old young man who was sitting on the sugarcane loaded trailer, lost his life in such accident. Learned Tribunal has fastened equal liability on the insurers of both the vehicles i.e. 50 per cent on the appellant and 50 per cent on the respondent no. 11.

It has been argued by learned Counsel for the appellant that the "trailer" has been defined in Section 2(46) of the M.V. Act and the same reads as under:

“trailer” means any vehicle, other than a semi-trailer and a side-car, drawn or intended to be drawn by a motor vehicle.

It has been argued that this trailer, being different from the tractor, required separate registration. However, learned Counsel for the appellant could not show that such a trailer requires separate insurance also.

In the opinion of this Court, a trailer is not required to be insured separately because it cannot be driven on its own and requires to be drawn or intended to be drawn by a motor vehicle like a tractor. If the tractor owner had attached such a trailer using the same for the purpose as indicated above, then its insurer cannot be absolved from the liability. It is also proved from the record that the said accident occurred due to the joint negligence of both the offending vehicles. Therefore, the learned Tribunal has rightly fastened liability, in equal proportion, i.e. fifty per cent of the awarded compensation on each of the insurance companies, who had provided the insurance cover to these two vehicles.

I find no force in this appeal. It is hereby dismissed. Cross objections (CLMA 1954/2009) stand rejected accordingly.

Registry shall forthwith remit the compulsory statutory deposit amount to the concerned Tribunal, which shall release the compensation money in favour of the claimants, in accordance to their respective shares, without asking for any surety/security from them.

Let LCR, along with a copy of this judgment, be sent back to the concerned Tribunal.

(Serves Kumar Gupta, J.)