

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4371 OF 2017  
(Arising out of SLP (C) No.23653 of 2015)

GURDEEP SINGH & ANR. . . APPELLANT(S)

VERSUS

NEW INDIA ASSURANCE CO. LTD. & ORS. . . RESPONDENT(S)

O R D E R

1. Heard learned counsel for the parties.
2. Leave granted.
3. The appeal has been preferred by the owner of the offending vehicle who is aggrieved by the judgment and order dated 31.3.2015 passed by the High Court of Punjab and Haryana at Chandigarh in FAO No.3768 of 2014 whereby the Insurance Company was allowed to recover the amount of compensation to the tune of Rs.7,17,200/- awarded by the Motor Accident Claims Tribunal from the driver and the owner of the offending vehicle.
4. The facts indicate that on 20.3.2012 an accident took place involving tractor trolley bearing registration No.HR-08G-8070 with a Maruti Gypsy to which a trailer was attached. Satbir Singh (since deceased) was sitting in the trolley. The Maruti Gypsy which was being driven rashly and negligently by its driver hit against the trolley. The

tractor trolley turned turtle and Satbir Singh died on the spot.

5. On a claim petition filed by the claimants/ respondents, the Motor Accident Claims Tribunal awarded compensation to a sum of Rs.7,17,200/- along with interest @ 7% per annum fastening the liability upon the owner, driver and the insurer of the vehicle.

6. Aggrieved thereby, the insurer preferred an appeal before the High Court which was allowed vide order impugned in this appeal. Aggrieved thereby, the owner of the vehicle has come up in this appeal.

7. It is submitted by the learned counsel appearing on behalf of the appellant that the deceased was travelling in the trolley of the tractor and accident took place due to the negligence of the driver of Maruti Gypsy vehicle, as such its insurer was liable to indemnify. It was submitted that the driver had attached the trailer with the gypsy. The said trailer was also insured with the Insurance Company as the premium for it was paid as such the vehicle was not driven in violation of the terms and conditions of Insurance Policy. Thus, the Insurance company was liable to make payment of compensation. It is apparent from Insurance Policy that the value of the vehicle as well as the trailer were required to be declared but they were not so declared as against a value

of both, it is mentioned at "0". The entries have to be taken into account. Premium given by the owner of the Maruti Gypsy covered trailer also.

8. Learned counsel for the respondent insurer has submitted that no premium was paid for trailer as such. The vehicle was being driven in violation of the terms and conditions of the Insurance Policy and the Insurance Company was not liable to make payment of compensation as such the Insurance Company would be entitled to recover the said amount from the appellants.

9. In our opinion, admittedly, as the vehicle Maruti Gypsy was insured and accident took place due to rash and negligent driving of the vehicle by the driver of the Maruti Gypsy. The person who was travelling in the trolley of the tractor succumbed to the injuries. The driver of the Maruti Gypsy was negligent and caused the accident. Thus, the owner, driver and the insurer were jointly and severally liable to make payment to the claimant. The person was not travelling in the trailer of Maruti Gypsy. As a matter of fact, accident was an outcome of rash and negligent driving of Maruti Gypsy. The trailer portion collided with trolley would not be enough to absolve the insurer from its liability to make indemnification. The trailer was attached to Maruti Gypsy, it was not stationary. The main cause of accident is

rash and negligent driving of Maruti Gypsy but for that accident would not have occurred. Hence, insurer could not have been given right to recover compensation from owner.

10. In the facts and circumstances of the case when the driver of the Maruti Gypsy was clearly responsible for the accident, the owner driver and insurer are obviously liable to indemnify the claim jointly and severally. The High Court erred in holding otherwise.

11. Therefore, we allow the appeal and accordingly set aside the impugned judgment and order of the High Court. No costs.

.....J.  
(ARUN MISHRA)

.....J.  
(AMITAVA ROY)

NEW DELHI;  
MARCH 08, 2017.

ITEM NO.5

COURT NO.11

SECTION IVB

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).23653/2015

(Arising out of impugned final judgment and order dated 31/03/2015 in FAO No. 3768/2014 passed by the High Court Of Punjab & Haryana at Chandigarh)

GURDEEP SINGH AND ANR.

Petitioner(s)

VERSUS

NEW INDIA INSURANCE CO. LTD. AND ORS.

Respondent(s)

(With appln. (s) for exemption from filing c/c of the impugned order and office report)

Date : 08/03/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA

HON'BLE MR. JUSTICE AMITAVA ROY

For Petitioner(s) Mr. Rishi Jain, Adv.  
Mr. Adarsh Upadhyay, Adv.

For Respondent(s) Amrendra Kumar Mehta, Adv.  
Mr. Rameshwar Prasad Goyal, Adv.

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

Leave granted.

The appeal is allowed in terms of the signed order.

(B.Parvathi)  
Court Master

(Tapan Kr. Chakraborty)  
Court Master

(Signed order is placed on the file)