



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

Civil Appeal Nos. 8155-8156 of 2023

Meena Jain & Anr.

....Appellant(s)

Versus

United India Insurance Co. Ltd. & Ors.

....Respondent(s)

ORDER

1. Two claim petitions were filed before the Motor Accident Claims Tribunal¹ for compensation due on the death of a minor child and her father. The claimants were the mother and sibling, of the minor child, who along with the mother-in-law made another application for compensation for the death of the father of the deceased child.

2. The claimants along with the deceased were travelling in a car from Pali to Jodhpur when it suddenly collided with a Neem tree. The driver of the vehicle, who was the bread winner of the family died on the spot, and his minor child succumbed to the injuries, in the hospital. The claimants also

¹ for short, 'the Tribunal'

suffered injuries. The claim petitions stood dismissed, finding the same to be not maintainable, especially when there was no negligence proved.

3. The deceased driver of the vehicle had borrowed the vehicle from his friend and hence, he steps into the shoes of the owner. The Tribunal found that only to bring in the aspect of negligence, at the evidence stage, a new story was spoken, of a truck having come through the wrong side negligently and rashly, thus forcing the driver to swerve the car, which collided with a Neem tree. The Tribunal disbelieved the oral evidence since it was not supported by the pleadings in the application. The application merely stated that the car hit a Neem tree and caused injuries to the occupants, to which injuries one passenger and the driver succumbed. Even if the new story hatched for the first time before the Tribunal is believed, it can only lead to the truck driver being found negligent, who along with the owner and the insurer of the vehicle were not parties before the Tribunal. The High Court after considering a number of decisions agreed with the Tribunal.

4. Admittedly, under Section 166 of the Indian Motor Vehicles Act, 1988², a claim for compensation for death or injury can be pursued only if there is established negligence on the part of the driver of the offending vehicle. Obviously, even if the driver of the subject vehicle in the above case is found to be negligent, there can be no compensation for his death, since he is the tort-feasor. The compensation with respect to the child could have been considered which also fails due to absence of any pleading of negligence.

5. The unfortunate accident occurred on 05.09.1993 and on that date Section 163A of the MV Act was not available in the statute, disentitling even the no fault liability claim under the MV Act. The provision under Section 163A was brought into the MV Act only with effect from 19.11.1994.

6. The learned counsel appearing for the appellant relied upon the judgment of this Court in ***National Insurance Company Ltd v. Balakrishnan and Anr.***³. That was a case in which the Managing Director was travelling in a company owned vehicle which vehicle was also validly insured. It was

² The MV Act

³ (2013) 1 SCC 731

held that the insurer would be liable to pay compensation in case of “comprehensive/package policy” but not in the case of an “Act policy”. A remand was made to the Tribunal to scrutinise the policy in the proper perspective and if necessary, take additional evidence as to the nature of the policy. The dictum does not at all help the appellants herein.

7. We are unable to interfere with the judgment of the High Court, and we dismiss the appeals.

8. Pending application, if any, shall stand disposed of.

..... J.
(K. VINOD CHANDRAN)

..... J.
(N.V. ANJARIA)

**New Delhi;
August 22, 2025.**