

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4301 OF 2008

[Arising out of SLP(C) No. 4356/2007]

NEW INDIA ASSURANCE CO. LTD.

...

APPELLANT(S)

:VERSUS:

BIKUNTHI DEVI AND ORS.

...

RESPONDENT(S)

WITH

CIVIL APPEAL NO. 4305 OF 2008

[Arising out of SLP(C) No. 5457/2007]

CIVIL APPEAL NO. 4304 OF 2008

[Arising out of SLP(C) No. 5458/2007]

CIVIL APPEAL NO. 4303 OF 2008

[Arising out of SLP(C) No. 5459/2007]

CIVIL APPEAL NO. 4302 OF 2008

[Arising out of SLP(C) No. 5460/2007]

ORDER

Leave granted in all the SLPs.

Having heard the learned counsel for the parties we are of the opinion that it was not a case warranting dismissal of the appeals, preferred by the appellants herein under Section 173(1) of the Motor Vehicles Act, 1988, in limine.

Learned counsel for the appellants submits that these matters are covered by the decisions of this Court in Smt. Thokchom Ongbi Sangeeta @ Sangi Devi & Anr. vs. Oriental Insurance Co. Ltd. & Ors., [2007 (12) SCALE 448] and

Learned counsel appearing on behalf of the respondents on the other hand, submits that the facts of those cases are not similar to the facts of the instant case, particularly when at least a few persons were travelling in a truck in the cabin of the driver, who were owner of the goods.

We are, therefore, of the opinion that the evidence adduced by the parties should be considered by the High Court inter alia in the light of the aforementioned two decisions of this Court. The impugned judgment is, therefore, set aside and the matter is remitted to the High Court for consideration thereof afresh on merit.

We request the High Court to consider the desirability of disposing of the appeals as expeditiously as possible, preferably within a period of eight weeks from the date of communication of this order.

Till the disposal of the appeals by the High Court, the award passed by the Motor Accident Claims Tribunal, Karnal, shall remain stayed.

The appeals are disposed of accordingly.

**.....J
(S.B. SINHA)**

**.....J
(CYRIAC JOSEPH)**

**NEW DELHI,
JULY 10, 2008.**