

CASE NO.:
Appeal (civil) 1350 of 2008

PETITIONER:
NATIONAL INSURANCE CO. LTD

RESPONDENT:
MOST MINA MISHRA

DATE OF JUDGMENT: 15/02/2008

BENCH:
S.B. SINHA & V.S. SIRPURKAR

JUDGMENT:
JUDGMENT
O R D E R

CIVIL APPEAL NO. 1350 OF 2008
[Arising out of SLP(C) No.5664/2007]

Leave granted.

The question as to whether the appellant Insurance Company is liable in relation to death or bodily injury suffered by the owner of a vehicle has since been covered by the decisions of this Court in National Insurance Co. Ltd. vs. Laxmi Narain Dhut, [2007 (4) SCALE 36] and The Oriental Insurance Company Limited vs. Meena Variyal & Ors., [2007 (5) SCALE 269]. In Meena Variyal (supra) it was noticed by this Court: "We are thus satisfied that based on the ratio in Swaran Singh (2004 3 SCC 297), the insurance company cannot be made liable in the case on hand to pay the compensation first and to recover it from the insured, the owner of the vehicle. The deceased being an employee not covered by the Workmen's Compensation Act, of the insured, the owner of the vehicle, has not been covered compulsorily under the Act and only by entering into of a special contract by the insured with the insurer should such a person be brought under coverage. There is no case that there is any special contract in that behalf in this case."

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For the reasons aforementioned, the impugned judgment cannot be sustained which is set aside and the appeal is allowed.