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INSURANCE

INSIGHT

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negligence by the Hon'ble High Court and Learned MACT



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Hon'ble Supreme Court overruled the concurrent findings of contributory negligence by the Hon'ble High Court and Learned MACT

In the case of Sushma v. Nitin Ganapati Rangole and Ors, Civil Appeal No. 10648 of 2024 (Arising out of SLP (Civil) No. 21172 of 2021), the Hon'ble Supreme Court held that deduction of 50% towards contributory negligence was wrong and overruled the findings of the Hon'ble High Court.

In this case, a car collided with a 14-wheeler trailer truck which was left abandoned in the middle of the highway without any warning signs in the form of indicators or parking lights. The collision resulted into the death of the passengers of the car and the driver at the spot. One of the passengers, survived the accident, however, sustaining grievous injuries. The car was insured by Respondent No. 4-IFFCO-TOKIO General Insurance Co. Ltd. (for short the 'Insurance Company'), whereas, the offending truck was insured by Respondent No. 2-Insurer.

The Hon'ble High Court and the Learned MACT both had given concurrent findings stating that this was a case of contributory negligence as the driver of the car failed to take necessary measures.

The Hon'ble supreme court held that in exercise of its jurisdiction Under Article 136 of the Constitution of India has the power to interfere, even if the Courts below have concurrently reached to a common conclusion with respect to a certain factual aspect, subject to the condition that such a conclusion is so perverse that no reasonable person could arrive at such a conclusion even if the evidence was taken at its face value.

Further, the Hon'ble High Court has also reduced the claims of the legal heirs of the deceased driver and the passengers on account of contributory negligence. The Hon'ble Supreme Court held that this was invalid and that the Courts below uniformly applied the principle of contributory negligence while directing deduction from the compensation awarded to the respective Appellant-claimants and the deceased driver's legal heirs, therefore the contributory negligence of the driver of the car was vicariously applied to the passengers which is prima facie illegal and impermissible. The Hon'ble Supreme Court held that the contributory negligence on the part of a driver of the vehicle involved in the accident cannot be vicariously attached to the passengers so as to reduce the compensation awarded to the passengers or their legal heirs.

The Hon'ble Supreme Court held that the Courts below erred in concluding that it is a case of contributory negligence, because in order to establish contributory negligence, some act or omission which materially contributed to the accident or damage should be attributed to the person against whom it is alleged. Therefore, the deduction of 50% towards contributory negligence was held to be invalid in law and the insurance company for the offending truck was liable to pay the whole amount.



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