

Provision of Section 95(1) of the old Act is in pari materia with Section 147(1) of the Act, as it stood prior to the amendment in 1994

[Case Brief] National Insurance Co. Ltd. Vs. Ajit Kumar & Ors.

Case name: National Insurance Co. Ltd. Vs. Ajit Kumar & Ors.

Case number: Civil Appeal 6915-6916 Of 2003
(Arising out of SLP© Nos: 18242-18243/2002).

Court: Hon'ble Supreme Court Of India.

Bench: J. Doraiswamy Raju, J
& Arijit Pasayat. J

Decided on: 02/09/2003

Relevant Act/Sections: Motor Vehicle Act,1988

➤ **BRIEF FACTS AND PROCEDURAL HISTORY:**

Factual aspects need not be gone into in detail as there is practically no dispute on the factual aspects.

The Procedural History stand as: -

1. The court reiterated the following judgements to discuss the law in the instant case.
2. In the case of New India Assurance Co. Ltd. Vs. Satpal Singh [2000(1) SCC 237] it was held that the Liability of the insurer was fixed and is liable to pay compensation for the death or bodily injury to a person travelling in goods vehicle as Passenger under the Motor Vehicles Act, 1988 as the same has been stated by the Learned Counsel of appellant.
3. In the case of New India Assurance Co. Ltd. Vs. Asha Rani & Ors. [2003(2)SCC 223] & Oriental Insurance Co. Ltd. Vs. Devireddy Konda Reddy & Ors. [2003(2)SCC 339] it was held

that the provisions of the Act do not enjoin any statutory liability on the owner of a vehicle to get his vehicle insured for any passenger travelling in a goods carriage and the insurer would have no liability therefor.

➤ **ISSUE BEFORE THE COURT:**

1. Whether the Insurer is liable to pay the Compensation for the death of or bodily injury caused to a person travelling in goods vehicle as Passenger under Motor Vehicle Act, 1988.

➤ **RATIO OF THE COURT**

1. The Ld. Counsel from the Appellant side submitted that the Liability of the insurer was fixed and is liable to pay compensation for the death or bodily injury to a person travelling in goods vehicle as Passenger under the Motor Vehicles Act, 1988
2. But, on the other hand, Ld. Counsel from the Respondent Side submitted that the provisions of the Act are not mixed with any Statutory Liability on the owner of a vehicle to get his vehicle insured for any passenger traveling in a goods carriage and the insurer would have no liability to pay the compensation for the death or the bodily injury caused to a person traveling in a goods carriage as a passenger. It is further described as the Amendments made to the sections of the Motor Vehicle Act:-
 - A. According to Section 2(8) "Goods Vehicle" of the old act and Section 2(14) "Goods Carriage" of the Amended act states that the Legislative intention was to prohibit goods vehicle from carrying any passenger. Further, it also states that the expression "Goods Carriage" is solely for carriage of goods not for carrying any passenger.
 - B. Section 147 of the Act mandates compulsory coverage against death of or bodily injury to any passenger of "Public Service Vehicle" which is defined under Section 2(25) of the Old Act & Section 2(35) of the Amended Act. The proviso makes it further clear that compulsory coverage in respect of drivers and conductors of Public Service Vehicle and employees carried in goods vehicle would be limited to liability under the Workmen's Compensation Act as there is no reference to any passenger in goods carriage.
3. The inevitable conclusion, therefore, is that provisions of the Act do not enjoin any statutory liability on the owner of a vehicle to get his vehicle insured for any passenger traveling in a goods carriage and the insurer would have no liability therefor.

➤ **DECISION HELD BY COURT:**

1. It was held that the Respondent is not liable to get any compensation under the Motor Vehicle Act, 1988 as the amended act prohibits the word of carrying of Passenger in “Goods carriage” according to section 2(14) and can avail the remedy for recovery of the amount from the available laws.