

New India Assurance Co.

Vs

C. M. Jaya and Others

Civil Appeals Nos. 4566-4567 of 1996

(G. B. Pattanaik, A. P. Mishra JJ)

23.07.1998

ORDER

1. The question involved in these appeals is whether in a case of insurance policy not taking any higher liability by accepting a higher premium, in case of payment of compensation to a third party, the insurer would be liable to the extent limited under Section 95(2) or the insurer would be liable to pay the entire amount and he may ultimately recover from the insured. On this question, there appears to be some apparent conflict in the two three-Judge Bench decisions of this Court - (1) New India Assurance Co. Ltd. v. Shanti Bai ((1995) 2 SCC 539) and (2) Amrit Lal Sood v. Kaushalya Devi Thapar ((1998) 3 SCC 744).

2. In the latter decision, unfortunately the decision in New India Assurance case ((1995) 2 SCC 539) has not been noticed though reference has been made to the decision of this Court in National Insurance Co. Ltd. v. Jugal Kishore ((1988) 1 SCC 626 : 1988 SCC (Cri) 222) which was relied upon in the earlier three-Judge Bench judgment. In view of the apparent conflict in these two three-Judge Bench decisions, we think it appropriate that the records of this case may be placed before my Lord, the Chief Justice of India to constitute a larger Bench for resolving the conflict. We accordingly so direct. The record may now be placed before the Hon'ble Chief Justice of India.

Court Masters