

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO.5881 OF 2008
(Arising out of SLP(C)No.7714 of 2007)**

NATIONAL INSURANCE CO.

Appellant(s)

Versus

AMARJIT KAUR & ORS.

Respondent(s)

O R D E R

Leave granted.

One of the questions which arose for consideration before the learned Motor Vehicles Claims Tribunal was as to whether the vehicle in question was insured with the appellant–Insurance Company or not.

It was contended that Truck No. HR-03 1213 was insured and not the Truck No. HR-03 1215. Respondent Nos. 5 and 6 have filed a counter affidavit before us annexing therewith the xerox copy of the Cover Note. From a perusal it appears that the truck in question, namely, Truck No. HR-03 1215 was insured with the appellant. It also appears from the Award of the learned Tribunal that appellant before us had filed a separate written statement. Admittedly the contention raised herein had not

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been raised before the Tribunal. The High Court, in that view of the matter, refused to go into such contention and, in our opinion, rightly.

The second contention raised by the learned counsel that the claim petition filed under Section 166 and Section 163A of the Motor Vehicles Act, 1988 was not maintainable. Learned counsel may be correct, but, from a perusal of the Award of the learned Tribunal it appears that it proceeded on the basis that the claim petition was filed under Section 166 of the Act and not under Section 163A thereof. Only because the claimant has mentioned both the aforementioned provisions, the same would not warrant our interference, if the correct procedure for disposal of the claim petitions have been followed. We are, therefore, not inclined to interfere with the Award as also with the impugned judgment of the High Court.

This appeal is accordingly, dismissed.

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

.....J.
(CYRIAC JOSEPH)

New Delhi,
September 26, 2008.