

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 268 of 1994

Appellant :- The New India Insurance Co. Ltd.

Respondent :- Sushila Devi And Others

Counsel for Appellant :- Rajeev Chaddha

Counsel for Respondent :- Abhishek Srivastava

Hon'ble Saral Srivastava,J.

1. Heard Sri Rajeev Chaddha, learned counsel for the appellant.
2. The present appeal has been preferred by the appellant-insurance company challenging the award dated 12.10.1993 passed by the Motor Accident Claims Tribunal/IVth Additional District Judge, Deoria (hereinafter referred to as 'Tribunal') whereby the Tribunal has awarded Rs.1,72,945/- along with 9% interest as compensation to the claimants/respondents.
3. Challenging the aforesaid award, learned counsel for the appellant has contended that the accident had taken place on 07.02.1989 and owner by playing fraud obtained the insurance policy at 2:30 P.M. on the same date, therefore, it is evident that offending vehicle i.e. Jeep No.D.L.D-113 was not insured with the appellant-insurance company at the time of the alleged accident. It is further submitted that officer of the insurance company as well as its investigator appeared before the Tribunal and deposed that insurance policy was issued after the occurrence of the alleged accident, and therefore, there was no policy in respect of offending vehicle at the time when the alleged accident took place. Accordingly, it is submitted that it is a case of no insurance, therefore, no liability can be fixed upon the appellant-insurance company to pay compensation.
4. Be that as it may, the Tribunal in concluding that the offending vehicle was insured with the appellant-insurance company at the time of the accident held that no time of commencement of insurance policy has been mentioned in the cover note as well as in the insurance policy, and therefore, the insurance policy shall be deemed to have been commenced from the midnight of the date on which it has been issued. Accordingly, it held that offending vehicle was insured with the appellant-insurance company on the date of the alleged accident.

5. Learned counsel for the appellant could not demonstrate from the record that the time of commencement of policy has been mentioned in the insurance policy. In such view of the fact, this Court does not find any illegality committed by the Tribunal in holding that offending vehicle was insured at the time of accident with the appellant-insurance company.

6. Lastly, it is urged that the award of 9% interest is also excessive. The claim petition was instituted in the year 1989 and at that time, the prevailing rate of interest was 9% on the fixed deposits. Accordingly, this Court does not find any good ground to reduce the rate of interest as awarded by the Tribunal.

7. Thus, for the reasons given above, the appeal lacks merit and is hereby ***dismissed*** with no order as to costs.

Order Date :- 31.10.2023

Sattyarth