

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 528 of 1999

Appellant :- The Oriental Insurance Co. Through Asstt. Manager Legal

Respondent :- Smt. Sudama Devi And Others

Counsel for Appellant :- P.N. Srivastava

Hon'ble Saral Srivastava,J.

1. Heard Sri P.N. Srivastava, learned counsel for the appellant.
2. The present appeal has been preferred by the appellant-insurance company challenging the award dated 04.02.1999 passed by the Motor Accident Claims Tribunal/IIIth Additional District Judge, Ghaziabad (hereinafter referred to as 'Tribunal') whereby the Tribunal has awarded Rs.90,000/- along with 12% interest as compensation to the claimants/respondents.
3. Challenging the aforesaid award, learned counsel for the appellant has contended that the driver of the offending bus No.DL E 5675 was not holding valid driving licence at the time of accident. It is submitted that the driving licence which was filed on record was got verified by the Insurance Company and on verification it was found that the driving licence was valid upto 21.11.1995 and thereafter, it was not renewed. Thus, it is contended that since the accident was taken place 18.07.1996 therefore the driving licence of the driver was not valid on the date of accident. It is submitted that the appellant-Insurance company produced the verification report obtained from the Transport Office, Delhi

and proved the same by producing the Surveyor/Investigator of the company. Accordingly, it is submitted that the insurance company proved on record that the driver of the offending vehicle was not holding a valid driving licence, therefore, the owner had committed breach of insurance policy and the insurance company should have been given right of recovery for the breach committed by the owner.

4. Be that as it may, that the tribunal in detail considered the testimony of the Surveyor of the insurance company and decided the issue of driving licence against the insurance company. The Court has also perused the finding of tribunal on issue no.2 and find that the finding of the tribunal is based upon the appreciation of evidence, and cogent reason has been given by the tribunal in deciding the issue no.2 against the insurance company. Beside this, court may note that though the verification report obtained from the Transport Office, Delhi was filed and the insurance company had tried to prove the same by producing its surveyor, but this Court is of the opinion that the verification report ought to have been proved by the officer of the transport authority, who had issued it.

5. In such view of the fact, this Court does not find any illegality committed by the tribunal on deciding the issue no.2 against the insurance company.

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

Order Date :- 2.11.2023/A.N. Mishra