

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 348 of 1996

Appellant :- The New India Assurance Com.Ltd.

Respondent :- Mukesh Garg And Another

Counsel for Appellant :- V.Saran,A.B. Saran,Arun Kumar Shukla

Counsel for Respondent :- Pramod Jain

With

Case :- FIRST APPEAL FROM ORDER No. - 349 of 1996

Appellant :- The New India Assurance Co.Ltd.

Respondent :- Mukesh Garg And Another

Counsel for Appellant :- ,A.K.Shukla,Arun Kumar Shukla

Counsel for Respondent :- Samir Sharma,Pramod Jain

Hon'ble Saral Srivastava,J.

1. Heard Sri Arun Kumar Shukla, learned counsel for the appellant. No one is present on behalf of the respondents even in the repeated calls.

2. Since, these two appeals are arising out of same accident and involves common issues, therefore, both the appeals are being decided together with this common judgement.

3. For convenience, the facts are being delineated from F.A.F.O. No.348 of 1996.

4. Both the aforesaid appeals have been preferred by the appellant-insurance company against the award dated 28.02.1996 passed by the Motor Accident Claims Tribunal/VIIIth Additional District Judge, Ghaziabad (hereinafter referred to as 'Tribunal') in M.A.C.P. Nos.225 of 1992 & 226 of 1992 whereby Tribunal has awarded Rs.2,10,000/- & Rs.76,000/- respectively as compensation to the claimants/respondents in both the appeals.

5. Challenging the aforesaid award, learned counsel for the appellant has contended that in the instant case, the accident had taken place between Car No.U.T.D.-7245 and Bus No.U.P.-14-3323. It is submitted that appellant is the insurer of Car, and insurance policy of the car was 'an act only policy' covering the

risk of only third party and not the occupants of the car, therefore, Tribunal has erred in law in directing the appellant to pay 50% of the awarded amount for the negligence of driver of Car.

6. Be that as it may, the record reveals that the insurance company did not get any issue framed on the point that insurance policy of the Car that it was only 'an act only policy' and did not cover the risk of occupants of the Car.

7. As the insurance company did not get any issue framed on the said point nor proved the same by leading cogent evidence, therefore, the argument raised by the learned counsel for the appellant is misconceived and is hereby rejected.

Accordingly, both the appeals lack merit and hereby ***dismissed*** with no order as to costs.

Order on Cross Objections in both the appeals.

Learned counsel for the cross objector is not present even in repeated calls.

Accordingly, the cross objections in both the appeals are ***dismissed*** for want of prosecution.

Order Date :- 17.10.2023

Sattyarth