

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 1362 of 2005

Appellant :- United India Insurance Co Ltd

Respondent :- Smt. Urmila Devi And Others

Counsel for Appellant :- Kuldeep Shanker Amist

Counsel for Respondent :- R.M. Vishwakarma

Hon'ble Saral Srivastava,J.

1. Heard learned counsel for the appellant.
2. The present appeal has been filed by the appellant-insurance company challenging the award dated 31.03.2005 passed by Workmen's Compensation Commissioner, Kanpur Region in K.R.W.C. No.115 of 2002.
3. The only contention advanced by learned counsel for the appellant is that the truck was insured for private purpose whereas it was being used for commercial purpose as the trolley attached with the tractor was carrying morang, and thus, the tractor was being used in breach of terms and conditions of insurance policy. Accordingly, it is contended that insurance company is not liable to pay compensation.
4. Be that as it may, in claim petition under Workmen Compensation Act, the claimant/respondent is required to prove only two ingredients; there was relationship of employer and employee between the owner of the tractor and the deceased and the deceased died during the course of employment and due to injuries suffered by him during the course of employment. In the instant case, the Commissioner found that both the ingredients are present. The question of breach of policy cannot be looked into in

proceeding in a case instituted under Workmen Compensation Act as the breach of insurance policy is the issue between the insured and insurance policy. If the insurance company feels that the owner has committed breach of insurance policy and if it is so advised, the insurance company may institute a separate proceeding to recover the awarded amount from the owner.

5. For the reasons given above, the appeal lacks merit and is accordingly ***dismissed*** without any order as to costs.

Order Date :- 1.11.2023

R.S. Tiwari