

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 912 of 1995

Appellant :- National Insurance Com. Ltd.

Respondent :- Smt. Beena Singh And Others

Counsel for Appellant :- Kuldeep Shanker Amist

Counsel for Respondent :- S.C. Rai

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 31.05.1995 passed by Motor Accident Claims Tribunal/IV Additional District Judge, Varanasi in M.A.C. Case No.63/1987.
3. Challenging the award, learned counsel for the appellant has contended that the driver of the offending vehicle was not holding valid driving licence at the time of accident. It is submitted that the driving licence of the driver was got verified by insurance company and it was found fake. The insurance company also filed verification report and produced surveyor to prove the verification report. It is further submitted that the insurance company also filed an application to summon an officer from the transport authority to prove it, but that application was rejected. Accordingly, it is submitted that the appellant insurance company discharged its burden of proof that the driving licence of driver was not valid on the date of accident, therefore, the Tribunal should have given right of recovery to the appellant insurance company.
4. Be that as it may, the verification report filed by the insurance company in respect to driving licence of the driver of offending vehicle was proved by the surveyor of the insurance company. The surveyor being an employee of the insurance company would not give any testimony against the interest of the insurance company. It is also pertinent to note that whether the verification report filed by the insurance company was genuine or not could be proved only by an officer of the transport authority who was said to have issued verification report. The insurance company did not produce the competent authority from the transport authority who could prove the verification report. This Court is of the view that the insurance company failed to prove the verification report as per

law. In such view of the fact, the Tribunal has not committed any illegality in deciding the issue of driving licence against the insurance.

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

Order Date :- 27.10.2023

R.S. Tiwari