

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 402 of 1995

Appellant :- United India Insurance Co. Ltd. Allahabad

Respondent :- Nathoo Devi And Others

Counsel for Appellant :- Kuldeep Shanker Amist

Counsel for Respondent :- Anand Kumar Tiwari

With

Case :- FIRST APPEAL FROM ORDER No. - 403 of 1995

Appellant :- United India Insurance Co. Ltd. Allahabad

Respondent :- Nathoo Devi And Others

Counsel for Appellant :- K.S. Amit

Counsel for Respondent :- Anand Kumar Tiwari

Hon'ble Saral Srivastava,J.

1. Heard Sri K.S. Amit, learned counsel for the appellant and learned counsel for the respondents.
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.402 of 1995.
4. Both the aforesaid appeals have been preferred by the appellant-insurance company against the award dated 22.12.1994 passed by the Motor Accident Claims Tribunal/VIth Additional District Judge, Bareilly (hereinafter referred to as 'Tribunal') in M.A.C.P. Nos.159 of 1991 & 169 of 1991 whereby Tribunal has awarded Rs.1,26,000/- & Rs.25,000/- respectively as compensation to the claimants/respondents in both the appeals.
5. Challenging the aforesaid award, learned counsel for the appellant has contended that the accident had taken place on 31.01.1991. It is submitted that the case of the claimants/respondents was that deceased alongwith his family was travelling alongwith households goods, but at the relevant time, the owner of the goods was also not covered on a goods carrying

vehicle and the owner of the goods was covered after the amendment incorporated in Section 147(1)(b) of the Motor Vehicles Act, 1988 (hereinafter referred to as 'Act, 1988'). It is contended that the controversy in hand is covered by the judgement of Apex Court in the case of ***New India Assurance Company Ltd. Vs. Asha Rani and Others 2003 ACJ 1.***

6. Per contra learned counsel for the respondents would contend that breach of insurance policy is an issue between the owner and the insurance company for which claimants should not suffer as the claimants are entitled to compensation.

7. Be that as it may, it is evident from the record that deceased alongwith his family was travelling alongwith household goods on Metador No.D-D-L-4249. On the date of accident i.e. 31.01.1991, as per the unamended Section 147(1)(b) of the Act, 1988, even the owner of the goods was not covered under the insurance policy, and thus, the insurance company is not liable to pay any compensation.

8. Further, the controversy in hand is covered by the judgement of Apex Court in the case of ***Asha Rani (supra).***

9. In such view of the fact, both the appeals of the appellant-insurance company are ***allowed*** and award of the Tribunal is modified to the extent that insurance company shall pay the awarded amount, and thereafter, recover it from the owner. There shall be no order as to costs.

Order Date :- 18.10.2023
Sattyarth