

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 175 of 1996

Appellant :- M/S New India Assurance Jco. Ltd.

Respondent :- Smt. Maya Devi And Ors.

Counsel for Appellant :- P.K. Bisaria,S.Kaur,Saurabh Srivastava

Counsel for Respondent :- S.K.Anwar

Hon'ble Saral Srivastava,J.

1. List has been revised. Sri Saurabh Srivastava, learned counsel for the appellant is present. However, no one is present on behalf of the respondents.

2. Heard learned counsel for the appellant.

3. The present appeal has been preferred by the appellant-insurance company challenging the award dated 01.12.1995 passed by the Motor Accident Claims Tribunal/Special Judge (E.C. Act), Etawah (hereinafter referred to as 'Tribunal') in M.A.C.P. No.289 of 1993 whereby the Tribunal has awarded Rs.1,68,000/- along with 12% interest as compensation to the claimants/respondents.

4. Challenging the aforesaid award, learned counsel for the appellant has contended that in the F.I.R. lodged in respect of occurrence of the alleged accident, name of driver was mentioned as Chote Singh whereas claimants/respondents have stated in the claim petition that Mahesh Kumar was driving the offending vehicle i.e. Truck No.C.P.W-7645. It is submitted that as per the F.I.R., Chote Singh was driving the offending vehicle who was not holding a valid driving licence, therefore, owner of the offending vehicle has committed breach of insurance policy, and Tribunal should have given right of recovery to the appellant.

5. Be that as it may, the Tribunal in deciding the issue of driving licence against the appellant-insurance company held that the insurance company neither verified the driving licence of Chote Singh nor Mahesh Kumar. As per the judgemet of Tribunal, the driving licence of both the persons namely, Chote Singh and Mahesh Kumar was filed on record which disclosed that the driving licence of both the persons namely Chote Singh and Mahesh Kumar were valid on the date of the alleged accident. The insurance company had failed to verify the driving licence of both the persons

namely, Chote Singh and Mahesh Kumar, therefore, even if the contention of learned counsel for the appellant is accepted that Chote Singh was driving the offending vehicle, the appellant-insurance company cannot succeed as Chote Singh was holding a valid driving licence at the time of the alleged accident. In such view of the fact, aforesaid contention of learned counsel for the appellant is misconceived and is rejected.

6. Accordingly, appeal lacks merit and is hereby ***dismissed*** with no order as to costs.

Order Date :- 16.10.2023

Sattyarth