

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 626 of 1996

Appellant :- The New India Assurance Co. Ltd.

Respondent :- Smt. Raj Kumari Singh And Others

Counsel for Appellant :- Amaresh Sinha

Hon'ble Saral Srivastava,J.

Order on Order Sheet.

In view of office report dated 17.10.2023, service of notice upon respondents is deemed sufficient.

Order on Appeal.

1. Heard Sri Anubhav Sinha, learned counsel for the appellant-insurance company. No one is present on behalf of the respondents even in repeated calls.

2. The present appeal has been preferred by the appellant-insurance company challenging the award dated 24.05.1996 passed by Motor Accident Claims Tribunal/IIIrd Additional District Judge, Kanpur Nagar (hereinafter referred to as 'Tribunal') in M.A.C.P. No.287 of 1992 whereby Tribunal has awarded Rs.24,640/- alongwith 12% interest as compensation to the claimants/respondents.

3. Challenging the aforesaid award, learned counsel for the appellant has contended that driving licence of the driver of the offending vehicle i.e. Truck No.U-H-H-768 was valid from w.e.f 01.12.1987 to 30.11.1990, and thereafter, it was renewed from 16.02.1993 to 15.02.1996 whereas alleged accident had taken place on 23.04.1992. Thus, it is contended that on the date of accident, the driver of the offending vehicle was not holding a valid driving licence. It is further submitted that Tribunal in view of the judgement of Apex Court in the case of ***Ishwar Chand Vs.Oriental Insurance Company Ltd. passed in Appeal (Civil) No.1213 of 2007*** has erred in law in holding that renewal of driving licence of the driver of the offending vehicle would relate back to the date of expiry of driving licence inasmuch as if the driver of the offending vehicle had not been eligible to drive the offending vehicle, the driving licence of the driver would not have

been renewed. Accordingly, it is submitted that the owner of the offending vehicle had committed breach of insurance policy, and therefore, appellant should have been given right of recovery.

4. Be that as it may, the record reveals that driving licence of the driver of the offending vehicle was valid w.e.f. 01.12.1987 to 30.11.1990 and, thereafter, it was renewed from 16.02.1993 to 15.02.1996 whereas alleged accident had taken place on 23.04.1992. Thus, on the date of alleged accident, the driving licence of the driver of the offending vehicle was not valid.

5. The Apex Court in the case of ***Ishwar Chand (supra)*** has held that if the application for renewal of driving licence is filed within one month from the date of expiry of driving licence, the renewal of driving licence would not relate back to the date of expiry of driving licence. There is nothing on record to indicate that application to renew the driving licence was submitted by the driver within one month from the date of expiry of driving licence. Accordingly, the finding of the Tribunal on the issue of driving licence is not sustainable and is set aside. The issue of driving licence is decided in favour of the appellant-insurance company.

6. Consequently, the appeal is partly ***allowed*** and appellant-insurance company is permitted to recover the awarded amount from the owner of the offending vehicle after satisfying the award.

Order Date :- 18.10.2023

Sattyarth