

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 526 of 1999

Appellant :- The Oriental Insurance Company Limited Through Dy.Manager

Respondent :- Man Singh And Others

Counsel for Appellant :- S.C. Srivastava

Counsel for Respondent :- R.B.Singh

Hon'ble Saral Srivastava,J.

Order on Application under Order 41 Rule 27 of C.P.C.

Heard learned counsel for the appellant/applicant.

The present application under Order 41 Rule 27 of C.P.C. has been filed by the appellant to take the input advice-cum report as document on record which proves that it was a case of fake insurance policy. The appellant in paragraph nos.2 to 6 in the supplementary affidavit filed in support of the application under Order 41 Rule 27 of C.P.C. explained the reasons for not filing the input advice-cum report before the Tribunal.

The record reveals that claim petition had been instituted in the year 1996, and it was only after the award has been passed the effort was made by the insurance company to obtain the original copy of insurance policy which is evident from the paragraph 4 of the supplementary affidavit, noted above.

No case for taking input advice-cum report as additional document in application under Order 41 Rule 27 of C.P.C. is made out inasmuch as none of the ingredients of Order 41 Rule 27 of C.P.C. are present to allow the application are present in the application.

Accordingly, the application under Order 41 Rule 27 of C.P.C. is ***rejected.***

Order on Appeal.

1. Heard learned counsel for the appellant-insurance company and learned counsel for the respondents.
2. The present appeal has been preferred by the appellant-

insurance company against the award dated 11.02.1999 passed by the Motor Accident Claims Tribunal/Ind Additional District Judge, Mathura (hereinafter referred to as 'Tribunal') in M.A.C.P. No.151 of 1996 whereby Tribunal has awarded Rs.55,000/- alongwith 12% interest as compensation to the claimants/respondents.

3. Challenging the aforesaid award, learned counsel for the appellant has contended that it was a case of fake insurance policy, therefore, insurance company cannot be made liable to pay compensation.

4. Per contra, learned counsel for the respondents would contend that Tribunal has recorded a categorical finding that photocopy of the insurance policy was on record and despite that, the insurance company did not make any effort to verify the insurance policy. Accordingly, it is submitted that finding of the Tribunal on the issue of insurance of the offending vehicle i.e. Bus No.U.P.B-5156 is correct and based upon proper appreciation of evidence and material on record and same does not call for any interference by this Court.

5. Be that as it may, the appellant-insurance company in the written statement has stated that in the absence of details of insurance policy on record, the insurance of the offending vehicle is not accepted. However, the photocopy of the insurance policy was on record and insurance company did not make any effort to get the same verified. It is only after the award has been passed by the Tribunal, the insurance company woke up from slumber and get it verified and according to insurance company on verification, it was found that the insurance policy was fake.

6. The insurance company has filed an application under Order 41 Rule 27 of C.P.C. to take input advice-cum report as additional document on record. However, the said application has been rejected by this Court by order dated 26.10.2023.

7. Thus, for the reasons given above, the appeal lacks merit and is hereby **dismissed** with no order as to costs.

Order Date :- 26.10.2023

Sattyarth