

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 572 of 1999

Appellant :- The New India Assurance Co. Ltd.

Respondent :- Rrajesh Kumar Singh And Others

Counsel for Appellant :- Vinod Swarup

Counsel for Respondent :- V.C. Dixit, Vipul Kumar

Hon'ble Saral Srivastava, J.

1. Heard learned counsel for the appellant and learned counsel for the respondents.

2. The present appeal has been filed by the appellant against the award dated 02.02.1999 passed by Motor Accident Claims Tribunal/Ind Additional District Judge, Jaunpur in M.A.C.P. No. 47 of 1996.

3. Challenging the said award, learned counsel for the appellant has contended that only the photocopy of the cover note was filed by the claimant/respondent which was fake, and thus, the Truck No.P.B.12A-4931 (hereinafter referred to as the 'offending vehicle') was not insured on the date of accident, and therefore, the Tribunal has erred in law in fastening the liability upon the appellant Insurance Company to pay the compensation.

4. Per contra, learned counsel for the respondents would contend that the burden was upon the appellant Insurance Company to prove that the cover note was fake, but the Insurance Company did not lead any evidence to prove that the cover note was fake, and in such view of the fact, the finding of the Tribunal on the issue of insurance of the offending vehicle is based upon the proper appreciation of evidence on record and being finding of fact is not

liable to be interfered with by this Court.

5. Be that as it may, the claimant had filed a cover note of insurance with regard to the offending vehicle before the Tribunal showing that the offending vehicle was insured on the date of accident. The Insurance Company set up a case that the cover note was fake, therefore, the burden was upon the Insurance Company to prove that the cover note was fake by leading cogent evidence on record, but the Insurance Company did not lead any evidence on record to establish that the cover note of insurance with respect to the offending vehicle was fake and the offending vehicle was not insured on the date of accident. In such view of the fact, this Court does not find any error committed by the Tribunal in holding that the offending vehicle was insured on the date of accident.

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

Order Date :- 17.10.2023

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