

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 652 of 1997

Appellant :- New India Assurance Company Limited

Respondent :- Sairabano And Others

Counsel for Appellant :- S.D. Pathak

Hon'ble Saral Srivastava,J.

1. Heard Sri Anubhav Sinha, learned counsel for the appellant-Insurance Company.
2. The present appeal has been filed by the appellant against the award dated 02.05.1997 passed by Motor Accident Claims Tribunal/District Judge, Sonbhadra.
3. Challenging the award, learned counsel for the appellant has contended that the finding of the Tribunal that the driver of the mini bus No.65-C-8795 was holding a valid driving licence is perverse and against the record. It is submitted that admittedly the driver of the mini bus was holding a driving licence to drive the light motor vehicle, whereas the mini bus was a passenger carrying vehicle, therefore, he should have possessed the driving licence to drive the transport vehicle. Accordingly, it is contended that since the owner has committed breach of policy, therefore, the appellant insurance company should have been given right of recovery.
4. Be that as it may, the laden weight of mini bus was 7500 kg., therefore, in view of the judgement of the Apex Court in the case of ***Mukund Dewangan Vs. Oriental Insurance Company Ltd 2017(4) T.A.C. 11 (SC)***, if a driver is holding a

licence to drive the light motor vehicle, he is authorized to drive such vehicle and he does not require any endorsement by the transport authority authorising him to drive the transport vehicle.

5. Since, the controversy in hand is squarely covered by the judgement of this Court in the case of ***Mukund Dewangan***, therefore, the present F.A.F.O. is **dismissed** in view of the judgement of the Apex Court in the case of ***Mukund Dewangan (supra)***.

Order Date :- 26.10.2023

NS