

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 1146 of 1998

Appellant :- Oriental Insurance Co. Ltd.

Respondent :- Smt. Maya Devi Burman And Others

Counsel for Appellant :- Kuldip Shanker Amist

Counsel for Respondent :- A.K. Rai, S.N. Singh, Virendra Nath Upadhyay

With

Case :- FIRST APPEAL FROM ORDER No. - 1147 of 1998

Appellant :- Oriental Insurance Co. Ltd.

Respondent :- Ram Naresh Tripathi And Others

Counsel for Appellant :- Kuldip Shanker Amist

Counsel for Respondent :- C.K. Parekh (Senior Adv.), Ajay Kumar Singh, Ashutosh Agrahari, U.K. Shukla

With

Case :- FIRST APPEAL FROM ORDER No. - 1148 of 1998

Appellant :- Oriental Insurance Co. Ltd.

Respondent :- Rajendra Kumar Chaurasiya And Others

Counsel for Appellant :- Kuldip Shanker Amist

Counsel for Respondent :- Ashutosh Agrahari, A.K. Singh, C.K. Parekh (Senior Adv.), V.K. Shukla

With

Case :- FIRST APPEAL FROM ORDER No. - 1149 of 1998

Appellant :- Oriental Insurance Co. Ltd.

Respondent :- Ashok Kumar Upadhyaya And Others

Counsel for Appellant :- Kuldip Shanker Amist

Counsel for Respondent :- Ajay Kumar Singh

With

Case :- FIRST APPEAL FROM ORDER No. - 1150 of 1998

Appellant :- Oriental Insurance Co. Ltd.

Respondent :- Barkatullah And Others

Counsel for Appellant :- Kuldip Shanker Amist

Counsel for Respondent :- Ajay Kumar Singh

Hon'ble Saral Srivastava,J.

1. Heard learned counsel for the appellant and learned counsel for the respondents.
2. Since all the appeals arise out of the common judgement, therefore, they are being decided by this common judgement.
3. The FAFO No.1146 of 1998 has been filed challenging the award dated 28.08.1998 passed by Motor Accident Claims Tribunal/Special Judge (E.C. Act)/Additional District Judge Varanasi in M.A.C.P No. 196 of 2005, FAFO No.1147 of 1998 has been preferred challenging the award passed in M.A.C.P. No.169 of 1995, FAFO No.1148 of 1998 has been preferred challenging the award passed in M.A.C.P. No.120 of 1996, FAFO No.1149 of 1998 has been preferred challenging the award passed in M.A.C.P. No.6 of 1996 & FAFO No.1150 of 1998 has been preferred challenging the award passed in M.A.C.P. No. 236 of 1995.
4. For the sake of convenience, the facts are being delineated from FAFO No.1146 of 1998.
5. Challenging the award, learned counsel for the appellant-Insurance Company has contended that it was a case of fake insurance policy, inasmuch as anti-dated policy was obtained by the owner of the offending vehicle. Accordingly, it is submitted that the appellant Insurance Company was not liable to pay compensation, and thus, the Tribunal has erred in law in fixing liability upon the Insurance Company to pay compensation.
6. Per contra, learned counsel for the respondents would contend that it is not disputed that there was a valid insurance policy in existence on the date of accident. It is submitted that the appellant Insurance Company did not lead any evidence that the owner had committed any fraud in obtaining the anti-dated policy. It is further contended that if the fraud had been committed by the employees of the insurance

company, the claimants should not suffer, and it is a matter between the owner and the Insurance Company. In such view of the fact, it is contended that the finding of the Tribunal on the issue of insurance policy is based upon proper appreciation of facts and evidence on record.

7. Be that as it may, the appellant Insurance Company is not disputing the fact that there was a policy in existence in respect of the offending vehicle on the date of accident. The case of the appellant Insurance Company is that it was an anti-dated policy obtained by fraud by the owner of the offending vehicle. The burden was upon the appellant Insurance Company to prove that any fraud was committed by the owner of the offending vehicle in obtaining the policy, but the appellant Insurance Company did not lead any evidence on the said point. In such view of the fact, this Court does not find any illegality committed by the Tribunal in holding that the offending vehicle was insured on the date of accident.

8. Consequently, all the appeals filed by the appellant Insurance Company lack merit, and are accordingly, **dismissed** with no order as to costs.

Order Date :- 17.10.2023

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