

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 727 of 2000

Appellant :- National Insurance Co. Ltd. Thr. Its Asstt. Manager

Respondent :- Ravi Shanker Alias Bhola And Another

Counsel for Appellant :- ,Rajesh Kumar

Counsel for Respondent :- Sahab Tiwari

Hon'ble Saral Srivastava,J.

1. Learned counsel for the appellant is present. learned counsel for the respondent is not present. The case is listed peremptorily.

2. The present appeal has been filed by the appellant challenging the award dated 25.02.2000 passed by Motor Accident Claims Tribunal/Ind Additional District Judge, Firozabad in M.A.C.P. No.35 of 1997.

3. It is contended that the Tribunal has erred in law in holding that the driving licence of the driver of the offending vehicle was valid. It is contended that the driving licence of the driver of the offending vehicle was issued from Regional Transport Office, Agra and on verification, it was found fake. It is submitted that the clerk of the Transport Office, Agra was produced as DW-2 who stated that the said driving licence was not issued from Agra. It is further submitted that the driving licence was further renewed from R.T.O., Firozabad and DW-3- Banke Lal a senior clerk from the Transport Office, Firozabad appeared and deposed that the driving licence was valid up to 17.08.1995, and thereafter, it was renewed for a period from 26.09.1995 to 25.09.1998. It is submitted that since the original driving licence was fake, therefore, renewal of the driving licence would not make driving licence valid, and thus, the insurance company has proved that the

owner has committed breach of policy and the insurance company should have been given right of recovery.

4. Be that as it may, it appears that the driving licence was issued from Regional Transport Office, Agra and on verification, it was found to be a fake driving licence. The insurance company produced DW-2 R.N. Tiwari, clerk in the Transport Office, Agra who deposed before the Tribunal that driving licence No.Y-2021/Agra/88 dated 23.04.1988 was not issued from Agra though it has come on record that as per testimony of clerk (DW-3) of Transport Office, Firozabad, driving licence was valid from 17.08.1995, but since the original driving licence was fake, therefore, the renewal of the driving licence would not validate the original driving licence. The controversy in hand is covered by judgment of the Apex Court in the case of *New India Assurance Co., Shimla Vs. Kamla and Others, AIR 2001 SC 1419*.

5. In such view of the fact, the finding of the Tribunal on the issue No.2 against the company is perverse and against the record and is not sustainable. Accordingly, issue No.2 is decided in favour of the insurance company. Insurance company is permitted to recover the awarded amount from the owner after paying the same to the claimant respondent No.1.

6. The appeal is **partly allowed** and award of the Tribunal is modified to the extent indicated above.

Order Date :- 17.10.2023

R.S. Tiwari