

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 1067 of 2002

Appellant :- The New India Assurance Co. Ltd. Kanpur Nagar

Respondent :- Smt. Vidya Devi And Others

Counsel for Appellant :- P.K.Bisaria,Arun Kumar Shukla

Counsel for Respondent :- Arun Kumar Singh,Mohd. Naushad Siddiqui,Shreesh Srivastava

Hon'ble Saral Srivastava,J.

1. Heard.

2. The present appeal has been preferred by the appellant-insurance company challenging the award dated 30.03.2002 passed by the Motor Accident Claims Tribunal/VIth Additional District Judge, Kanpur Nagar (hereinafter referred to as 'Tribunal') in M.A.C.P. No.311 of 2000 whereby the Tribunal has awarded Rs.3,60,000/- along with 9% interest as compensation to the claimants/respondents.

3. The appellant-insurance company has filed the present appeal mainly on the ground that there was breach of insurance policy inasmuch as the trolley was attached with the tractor and marriage party was travelling in the trolley, thus, owner of the offending vehicle has committed breach of insurance policy and appellant-insurance company is not liable to pay compensation.

4. Sri Shreesh Srivastava, learned counsel for the claimants/respondents would contend that another F.A.F.O. No.1088 of 2002 (New India Assurance Company Ltd. Kanpur Nagar Vs. Alla Deen and Others) arising out of same accident has been dismissed by Co-ordinate Bench of this Court by judgement dated 08.07.2002. The judgement dated 08.07.2002 is reproduced herein below:-

"Heard learned counsel for the appellant and perused the Judgement of Motor Accident Claim Tribunal/6th A.D.J., Kanpur Nagar.

This appeal has been directed against the award dated 30th March, 2002 passed by Motor Accident Claim Tribunal/6th A.D.J., Kanpur Nagar awarding a sum of Rs.60,000/- along with interest at the rate of 9% P.A. to the respondents no.1 and 2 on account of death of Sariq the son of respondent no.1 and 2 in a motor accident. The tractor which was involved in the

accident was duly insured with the appellant and therefore, the liability to pay the amount of award was fastened on the appellant.

Having heard learned counsel for the appellant and perused the judgement, I find that there appears no force in the appeal and amount of compensation is also not excessive. No ground to admit the appeal. The appeal is dismissed summarily. The appellant is directed to deposit the amount of award within a period of two months from today. Statutory deposit made in this Court shall be sent back to the Tribunal concerned for adjustment towards payment of amount of award as ordered above. In case the amount of compensation is not paid within two months for claimant shall be entitled to get it recovered through Court of law."

5. Since F.A.F.O. No.1088 of 2002 arising out of same accident has been dismissed by this Court, therefore, present appeal is also ***dismissed*** following the judgement of this Court in F.A.F.O. No.1088 of 2002.

Order Date :- 28.10.2023

Sattiyarth