

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 2442 of 2002

Appellant :- New India Assurance Co. Ltd.

Respondent :- Km. Hina Parveen And Others

Counsel for Appellant :- Arvind Kumar

Counsel for Respondent :- H.K.Srivastava,Dharmendra Prasad,Hari Shankar Chaurasia

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 28.08.2002 passed by Motor Accident Claims Tribunal/Additional District Judge, Allahabad in M.A.C.P. No. 49 of 1986.
3. Challenging the said award, learned counsel for the appellant has contended that though the appellant Insurance Company pressed before the Tribunal to frame an issue with regard to breach of insurance policy on the ground of driving licence, but the Tribunal has not framed any issue with respect to breach of insurance policy on the ground of driving licence, and thus, the judgement of the Tribunal is not sustainable in law.
4. Per contra, learned counsel for the respondents would contend that the appellant Insurance Company did not raise any plea with regard to driving licence in the written statement, and as such the contention advanced by the learned counsel for the appellant Insurance Company that it raised a plea on the issue of driving licence is misconceived and against the record.
5. Be that as it may, the Court has perused the written statement

filed by the appellant Insurance Company, which reveals that the appellant Insurance Company did not take any plea with regard to breach of policy on the issue of driving licence. Since, no such plea was taken by the appellant Insurance Company with regard to breach of insurance policy on the ground of driving licence, therefore, it was not incumbent upon the Tribunal to frame any issue even if that was pressed by the Insurance Company before the Tribunal.

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

Order Date :- 30.10.2023

NS