

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 1760 of 2005

Appellant :- Oriental Insurance Co Ltd

Respondent :- Shramawati And Others

Counsel for Appellant :- Arvind Kumar

Counsel for Respondent :- Hawaldar Ram,R.K.Awasthi,S.N. Pandey

Hon'ble Saral Srivastava,J.

1. Heard learned counsel for the appellant.
2. The present appeal has been preferred by the appellant-insurance company challenging the award dated 07.04.2005 passed by the Motor Accident Claims Tribunal/A.D.J., Court No.5, Deoria (hereinafter referred to as 'Tribunal') in M.A.C. No.457 of 2003.
3. Challenging the award, learned counsel for the appellant has contended that the finding of the Tribunal that the driver of truck No.W73/7726 was holding a valid driving licence is perverse and against the record. It is submitted that on verification of driving licence of the driver of the offending vehicle, it was found that the name of the father of the driver in the charge sheet and in the driving licence are different, and thus, it was proved that the driving licence filed on record was not of the driver of offending vehicle. Thus, it is contended that the Tribunal should have given right of recovery to the appellant. It is further contended that the Tribunal has erred in law in holding the income of the deceased to be Rs.2700/- per month without there being any evidence on record.
4. Per contra, learned counsel for the respondents would contend that the Tribunal has rightly recorded a finding that the appellant did not get the driving licence verified from the transport authority

who issued the driving licence. It is submitted that since the insurance company failed to prove that the driver of the offending vehicle was not holding valid driving licence, therefore, the finding of the Tribunal on the issue of driving licence is based upon proper appreciation of evidence on record. It is further contended that the compensation awarded by Tribunal is just and proper.

5. Be that as it may, the Tribunal in recording a finding on issue of driving licence found that since the driving licence filed on record was issued from Amritsar, Punjab and it was renewed subsequently from the transport office, Hazaribagh, therefore, the insurance company ought to have got the driving licence verified from Amritsar, Punjab from where the original licence was issued. This Court is of the view that since the original licence was issued from the transport office Amritsar, Punjab, therefore, in order to verify genuineness of the driving licence and also the name of the father recorded in the transport office, verification of driving licence should have been done from the office of transport authority Amritsar, Punjab. In such view of the fact, this Court does not find any illegality committed by the Tribunal on the issue of driving licence against the appellant.

6. So far as the issue of quantification is concerned, the accident had taken place in the year 2003, therefore, this Court is of the view that assessment of income to the tune of Rs.2700/- per month is just and proper and does not call for any interference.

7. For the reasons given above, the appeal lacks merit and is accordingly **dismissed** without any order as to costs.

Order Date :- 1.11.2023/R.S. Tiwari