

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 2834 of 2008

Appellant :- The New India Assurance Company Ltd.

Respondent :- Smt. Chameli And Others

Counsel for Appellant :- Arun Kumar Shukla

Counsel for Respondent :- R.P.S. Chauhan, S.N. Tripathi

Hon'ble Saral Srivastava, J.

1. Heard learned counsel for the appellant and learned counsel for the respondents.
2. The present appeal has been preferred by the appellant-insurance company challenging the award dated 14.03.2008 passed by the Motor Accident Claims Tribunal/Additional District Judge, Court No.2, Rampur (hereinafter referred to as 'Tribunal') in M.A.C.P. No.61 of 2005 whereby the Tribunal has awarded Rs.3,46,000/- along with 6% interest as compensation to the claimants/respondents.
3. Challenging the aforesaid award, learned counsel for the appellant has contended that once Tribunal has recorded a finding that offending vehicle i.e. Truck No.U.P.-21-9474 was driven by its driver not holding a valid driving licence, Tribunal should have absolved the insurance company from paying any compensation. It is contended that direction of the Tribunal that insurance company shall pay the award and thereafter, recover it from the owner is illegal and not sustainable in law.
4. Be that as it may, the law on the point that if the owner has committed breach of insurance policy, the insurance company is liable to pay award and thereafter, recover it from the owner, is settled by the judgement of Apex Court in the case of ***National Insurance Company Ltd. Vs. Swaran Singh & Others, AIR 2004 SC 1531*** wherein Apex Court has held that in case of breach of terms and conditions of policy, the insurance company should pay the award and thereafter recover it from the owner of the vehicle.
5. Thus, the contention of learned counsel for the appellant is misconceived in view of the judgement of Apex Court in the case of ***Swaran Singh (supra)***.

6. Accordingly, the appeal lacks merit and is accordingly, ***dismissed*** with no order as to costs.

Order Date :- 12.10.2023

Sattiyarth