

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 1518 of 2007

Appellant :- The Oriental Insurance Company Ltd.

Respondent :- Smt. Champa Mandal And Others

Counsel for Appellant :- Subash Chandra Srivastava

Counsel for Respondent :- Saroj Kumar Dubey, Sanjay Kumar 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 filed by the appellant-insurance company against the award dated 09.02.2007 passed by Motor Accident Claims Tribunal, Jaunpur in MACP No.40 of 2006.

3. Challenging the award, learned counsel for the appellant has contended that the appellant is insurer of tanker No.UP6H/7371 and the driver of tanker was holding driving license to drive heavy goods vehicles. It is submitted that the driving license did not contain any endorsement authorizing him to drive the vehicles carrying hazardous goods and as such, the owner of the tanker has committed breach of insurance policy and the insurance company should have been given the right of recovery by the tribunal. Accordingly, it is submitted that the finding of the tribunal on the issue of driving license is perverse and against the record.

4. Per contra, learned counsel for the respondents has

contended that the insurance company did not lead any evidence on record to prove that at the relevant time, the tanker was carrying hazardous goods and as such, the tribunal has rightly held that the driver of offending vehicle was holding a valid driving license.

5. Be that as it may, it is not disputed that the driver of tanker was holding driving license to drive heavy goods vehicles. It is not established by the insurance company that at the time of accident, the tanker was carrying hazardous goods, therefore, in such view of the fact, the submission of learned counsel for the appellant that the driver should have possessed driving license to drive hazardous goods is misconceived. Consequently, this Court is of the view that the tribunal has rightly decided the issue of driving license against the insurance company.

6. For the reasons given above, the appeal lacks merit and is **dismissed.**

Order Date :- 1.11.2023
SS