

Court No. - 8

Case :- FIRST APPEAL FROM ORDER No. - 116 of 2001

Appellant :- The United India Insurance Co. Ltd.

Respondent :- Durga Prasad Awasthi And Others

Counsel for Appellant :- R.C.Sharma

Counsel for Respondent :- R.K. Sahu,Durga Prasad,M.K. Sahu,Raghunath Prasad

Hon'ble Ajay Bhanot,J.

Heard Shri R. C. Sharma, learned counsel for the appellant-insurance company and Shri Durga Prasad, learned counsel for the respondent no. 3.

This first appeal from order arises out of the judgment and award dated 11.12.2000 passed by the learned Vth Additional District Judge/Motor Accident Claims Tribunal, Lucknow in M.A.C.P. No. 68 of 1995 (In re Durga Prasad Awasthi and another Vs. Sayeeduddin and others) partly allowing the claim and awarding a sum of Rs. 1,25,000/- along with interest of 12% per annum. The amount was liable to be paid by the appellant-insurance company. The insurance company is in appeal.

During the pendency of this appeal, the first three respondents-claimants died and they have been substituted by their legal heirs/legal representatives.

Brief case of the claimants before the learned tribunal was that the deceased was travelling by car from Allahabad to Lucknow on 19.09.1994. On the fateful journey, the deceased died from injuries sustained in an accident caused by the rash and negligent driving of the

driver of the offending bus bearing Registration No. UG H 695. The driver of the offending bus drove recklessly and made a head on collision with the ill-fated car in which the deceased was travelling. The offending bus was insured by appellant Insurance Company. The claimants were dependants on the deceased.

Shri R. C. Sharma, learned counsel for the appellant-insurance company has submitted that though multiple grounds have been pleaded in the memo of appeal, however, the appellant presses only two grounds for consideration in this first appeal from order. Firstly, the driving licence of the driver of the offending vehicle was not valid at the time of the accident. Secondly, the interest on the awarded amount granted by the learned tribunal was excessive.

Shri Durga Prasad, learned counsel for the respondent no. 3 contests the aforesaid submissions and submits that the award is lawful and valid.

After advancing their arguments, learned counsels for the respective parties agree that the following questions fall for consideration in these appeals:-

A. Whether the driver of the offending vehicle had a valid driving licence at the time of the accident?

B. Whether the interest on the awarded amount granted by the learned tribunal is excessive?

The learned tribunal in the impugned award has found

that the driver of the offending bus no. UG H 695 was issued a driving licence on 07.10.1993 which would be considered valid for one year. The mishap happened on 19.09.1994. The driving licence was hence found to be valid on the date of the accident.

The appellant-insurance company has relied on a document which has been issued purportedly by the licensing authority on Rs. 10/- Stamp Paper. There was no cause for the licensing authority to issue a clarification on Rs. 10/-Stamp Paper. This itself creates a doubt about the authenticity of the aforesaid document. Moreover from a perusal of the award it is evident that the document was not proved as per law and never pressed before the learned tribunal. The said document is disputed by the respondent-claimants and does not come to the aid of the appellant-insurance company in any manner.

The findings of the learned tribunal on the validity of the driving licence of the driver of the offending vehicle was hence lawful and valid and the same is not liable to be interfered with. The first issue is accordingly decided for the respondents-claimants and against the appellant-insurance company.

On the second issue, there is a merit in the submission of Shri R. C. Sharma, learned counsel for the appellant-insurance company that the interest of 12% granted to the claimants is excessive. The interest on the awarded amount is reduced to 8%.

In wake of the aforesaid, the first appeal from order is partly allowed.

The amount deposited by the Insurance Company before this Court while instituting this appeal shall be transmitted to the learned trial court which shall be adjusted accordingly.

The learned tribunal shall release the balance amount after calculation of the interest in wake of the preceding discussion within a period of two months from the date of receipt of a certified copy of this order.

Order Date :- 10.8.2023/Dhananjai