

(2009) 11 DEL CK 0300
In the Delhi High Court
Case No : MAC. APP. No. 623 of 2008

Bajaj Allianz Insurance Company Ltd.	APPELLANT
Vs	
Smt. Prabha Devi and Others	RESPONDENT

Date of Decision : 18-11-2009

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 12 Rule 8

Citation : (2009) 7 ILR Delhi 706

Hon'ble Judges : J.R. Midha, J

Bench : Single Bench

Advocate : Neerja Sachdeva, for the Appellant; Navneet Goyal, for the Respondent

Judgement

J.R. Midha, J.—The appellant has challenged the award of the learned Tribunal whereby compensation of Rs. 8,16,000/- has been awarded to the claimants/respondents No. 1 to 3.

2. The accident dated 4th March, 2007 resulted in death of Jai Ram Chaurasia whose legal representatives filed the claim petition before the learned Tribunal.

3. The only ground urged before the learned Counsel for the appellant at the time of the hearing of this appeal is that the driving licence of the driver of the offending vehicle is fake and, therefore, the learned Tribunal ought to have given recovery rights to the appellant to recover the award amount from the owner of the offending vehicle.

4. The appellant examined R2W1 from the RTO Office, Kohima, Nagaland and proved report Ex.R2W1/1 and Ex.R2W1/2 to the effect that the driving licence of the offending vehicle was fake. The appellant also gave notice under Order 12 Rule 8 of CPC which was proved by R2W2 as Ex.R2W2/2.

5. The appellant has successfully proved before the learned Tribunal that the driving licence of the offending vehicle was fake and, therefore, the appellant is entitled to the recovery rights. The finding of the learned Tribunal in this regard

is modified and the recovery rights are given to the appellant to recover the award amount from the respondent No. 4 after making the payment to claimants/respondents No. 1 to 3.

6. The appellant has deposited the award amount after adjusting the statutory amount in terms of order dated 29th January, 2009. The Registrar General of this Court is directed to release the statutory amount as well as the award amount deposited by the appellant to claimants/respondents No. 1 to 3 in terms of the award.

7. Copy of this order be given "Dasti" to learned Counsel for the parties under signatures of Court Master.