
(2011) 08 AHC CK 0299
In the Allahabad High Court
Case No : F.A.F.O. No. 510 of 2000

Brij Kishore and another

APPELLANT

Vs

Smt. Rani and others

RESPONDENT

Date of Decision : 25-08-2011

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2011) 5 AWC 4981

Hon'ble Judges : Satish Chandra, J;Devi Prasad Singh, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Devi Prasad Singh and Dr. Satish Chandra, JJ.—Present appeal u/s 173 of Motor Vehicles Act has been preferred against the impugned award dated 26.10.1999 delivered by Motor Accident Claims Tribunal, Unnao in Motor Accident Claim No. 228 of 1997.

2. While allowing the claim, the Tribunal has held that the owner is responsible for payment of compensation on the ground that the driver was not having the driving licence. The licence was for light motor vehicle. Hence, the truck could not have been plied by the driver.

3. Attention has been invited to the driving licence filed before the Tribunal which shows that it is for heavy goods vehicle. Hence, truck could have been plied by the driver.

4. This factual dispute with regard to driving licence has not been disputed very fairly by the learned counsel for the insurance company Sri Suresh Panjwani. We appreciate the assistance given by Sri Suresh Panjwani fairly which is based on evidence on record.

5. In view of above, since no other ground has been raised nor argued by either side except the right of the driver, who plied the motor vehicle and the

consequential order passed by the Tribunal, we allow the appeal and modify the impugned order dated 26.10.1999 holding that the respondent-insurance company shall, be liable to pay compensation in terms of the impugned award dated 26.10.1999. The award stands modified accordingly.

6. Let the entire amount be deposited before the Tribunal by the respondent-insurance company within two months, which shall be released in favour of the claimants-respondents immediately one month thereafter. The amount paid by the appellant to the claimant shall be refunded to him by the Tribunal as and when respondent-insurance company deposit the same.

7. Subject to above, appeal allowed.

No order as to cost.