

(2009) 11 DEL CK 0301
In the Delhi High Court
Case No : MAC. APP. No. 392 of 2009

Jagdish Parihar

APPELLANT

Vs

United Insurence Company Ltd. and Others

RESPONDENT

Date of Decision : 17-11-2009

Acts Referred:

Citation : (2009) 11 DEL CK 0301

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

Bench : Single Bench

Advocate : Protima Parihar, for the Appellant; Sameer Nandwani, for the Respondent

Final Decision : Allowed

Judgement

J.R. Midha, J.—The appellant has challenged the award of the learned Tribunal. The appellant is the owner of the offending vehicle and the learned Tribunal has given the recovery rights to respondent No. 1 to recover the award amount from the appellant on the ground that the driver of the offending vehicle was not holding a valid driving licence at the time of the accident.

2. The learned Counsel for the appellant submits that the driving licence of the driver was duly proved before the learned Tribunal as Ex.PW1/4 but the learned Tribunal did not consider the said document.

3. The finding of the learned Tribunal that the driver of the offending vehicle was not holding a valid driving licence at the time of the accident is contrary to the evidence on record. Ex.PW1/4 is the copy of the driving licence of the driver of the offending vehicle duly proved before the learned Tribunal.

4. Vide order dated 17th August, 2009 both the parties were directed to obtain a certificate from the concerned Transport Authority about the genuinty of the licence Ex.PW1/4. Both the parties have placed on record the certificate from the Road Transport Authority, Delhi certifying that the said driving licence is genuine.

5. In that view of the matter, the finding of the learned Tribunal to the effect that the driver of the offending vehicle was not holding a valid driving licence at the time of the accident is set aside and it is held that the driver of the offending vehicle was holding a valid driving licence at the time of the accident.
6. The appeal is allowed and the impugned award is set aside in so far as the learned Tribunal has given the recovery rights to respondent No. 1 to recover the award from the appellant. The order for the auction of the offending vehicle is also quashed and set aside.
7. The statutory amount of Rs. 25,000/- deposited by the appellant be refunded back to the appellant through counsel within four weeks.
8. Copy of this order be given "Dasti" to learned Counsel for both the parties under signature of Court Master.