

(2013) 11 JH CK 0041
In the Jharkhand High Court
Case No : M.A. No. 325 of 2008

National Insurance Co. Ltd.

APPELLANT

Vs

Shanti Devi and Others

RESPONDENT

Date of Decision : 12-11-2013

Acts Referred:

Citation : (2013) 11 JH CK 0041

Hon'ble Judges : Dhruv Narayan Upadhyay, J

Bench : Single Bench

Advocate : G.C. Jha, for the Appellant; S.K. Singh, for the Respondent

Final Decision : Disposed Off

Judgement

Dhruv Narayan Upadhyay, J.—This appeal has been preferred by the appellant National Insurance Co. Ltd. against the judgment and award dated 5.2.2008 passed by Addl. District Judge (FTC III) cum Motor Vehicles Accident Claims Tribunal, Jamshedpur, in connection with Compensation Case No. 163 of 2006 whereby and whereunder the learned tribunal has allowed compensation to the extent of Rs. 1,72,000/- (rupees one lakh and seventy two thousand) to the claimant/respondents and the compensation amount was directed to be paid by the insurance company after deducting Rs. 50,000/- (rupees fifty thousand) it paid by way of interim compensation and the balance amount of Rs. 1,22,000/- shall be paid with interest @ 6 % per annum from the date of application i.e. 10.11.2006. Heard the counsel for the parties.

2. It is submitted that the tribunal has held that the owner of the vehicle had permitted the vehicle to be driven by a person who was not having a valid licence and also observed in the concluding line in para 10 of the impugned judgment that the insurance company may recover the amount of compensation from the owner of the offending vehicle, but again while deciding issue No. 5 in para 12 contradictory finding has been given by the learned tribunal by observing that the insurance company is directed to indemnify the liability of the owner because

the vehicle was covered under the insurance policy at the relevant time.

3. Learned counsel appearing on behalf of the respondent claimant has submitted that they have received rupees fifty thousand and the claimant should not be harassed in the dispute prevailing between the insurer and the insured.

4. I have gone through the impugned judgment and the relevant paragraphs referred to above. Since the learned tribunal has held that the vehicle at the relevant time was being driven by a person who was not having valid licence, the appellant insurance company will have the recovery right and the amount paid to the claimant may be recovered from the owner of the vehicle.

5. It is made clear that after making payment of compensation amount to the claimant(s), the appellant insurance company shall recover the amount so paid, from respondent No. 2, the insured/owner of the vehicle.

6. In the result, the insurance company is directed to pay the balance amount of Rs. 1,22,000/- (rupees one lakh and twenty two thousand) with interest @ 6% per annum from 10.11.2006 to the claimant and for that cheque drawn in favour of the claimant respondent No. 1 must be deposited with the Secretary, High Court Legal Services Committee, on or before 22.11.2013, so that the amount of compensation is paid to the claimant without any further delay, in the Lok Adalat scheduled to be held on 23.11.2013. After payment is made to the claimant, the appellant is authorised to withdraw the statutory amount of rupees twenty five thousand deposited by the insurance company at the time of filing of the appeal.

7. With the above observation, this appeal stands disposed of.

8. Learned counsel for the claimant- respondents shall communicate this order to the claimant, so that the claimant may remain present in the Lok Adalat on 23.11.2013 to receive the amount of compensation by way of cheque. Let a copy of this order be given to the counsel for the insurance company, so that the order is complied with.