(2003) 09 AHC CK 0311

In the Allahabad High Court

National Insurance Company Limited APPELLANT

Vs

Suresh Chandra Dwivedi and Others RESPONDENT

Date of Decision : 02-09-2003

Acts Referred:

Citation : (2005) 4 ACC 141

Hon'ble Judges : Prakash Krishna, J

Bench : Single Bench

Judgement

Prakash Krishna, J.—This appeal has been filed against the order dated 5.7.2003 passed by the Motor Accident Claims Tribunal, Kanpur Nagar in MACT Case No. 55 of 2002. The plaintiff respondent filed claim petition under Motor Vehicles Act for the injuries suffered by him on account of the accident, which took place on 8th October, 2000. It was stated that the claimant received injuries while he was going towards his house on the aforesaid date from one Truck No. PIL - 5682 driven by Sri Harveer Singh. The claimant received injuries as the truck was being driven rashly and negligently. The truck hit the vehicle of the claimant, with the result the claimant received multiple injuries, he has become permanent disable person. At the time of accident the age of the claimant was 46 years and was drawing salary of Rs. 4,130/-.

2. The claim petition was contested by the present appellant on number of pleas including that the truck driver was not holding a valid licence and, as such, Insurance Company is not liable to pay any compensation amount. The Insurer has committed breach of the insurance policy. The Tribunal by order under appeal has allowed the claim petition in part and awarded damages at Rs. 55,390/- with interest at the rate of 9% per annum. The said amount has been awarded against the Insurance Company, the present appellant. Aggrieved against the aforesaid order present appeal has been filed.

3. Heard Mr. Satish Chaturvedi, learned Counsel for the appellant.

4. The finding of the Tribunal regarding rash and negligence driving of the truck

and on the quantum of compensation have not been challenged by him. The present appeal has been confined only on two grounds.

5. Firstly, it was submitted that on the finding recorded by the Tribunal that the truck vehicle was being driven by the driver not possessing a valid licence, the Insurance Company could not be asked to indemnify the damages. I have given careful consideration to the aforesaid submissions. Issue No. 2 has been framed on this point. Photo copy of the driving licence of the driver Harveer Singh has been filed. It is paper No. 12-C. To rebut the said document, a letter from the Licensing Authority, Regional Transport Officer agra (hereinafter referred to as RTO) was filed by the appellant. The RTO, Agra has certified that from his office no such driving licence was issued in favour of Harveer Singh. The Tribunal on the basis of letter of RTO has concluded that the driver had a forged driving licence. It was submitted by the learned Counsel for the appellant that in view of this finding the order of the Court below is liable to be set aside, so far it is against the Insurance Company. The said argument has no merit and is liable to be rejected. Supreme Court in the case of United India Insurance Company Ltd. Vs. Lehru and Others, has held that the Court cannot refuse to award compensation against the Insurance Company if the vehicle was being driven by the driver having forged licence, it is not expected from the employer who engages the driver to verify the genuineness of the driving licence from the Office of RTO, Agra. The Regional Transport Offices are spread all over India. It has been held in the above case that liability will be fastened upon the Insurance Company and it shall be open for the Insurance Company to recover the said amount from the insured person. The Tribunal was rightly placed reliance upon the said judgment.

6. The second point urged was regarding rate of interest. It was submitted that grant of interest at the rate of 9% is excessive and arbitrary. He could not substantiate the claim on the basis of any material on record. It cannot be disputed by him that the Tribunal has power to grant interest. In absence of any contrary material the award of interest at the rate of 9% is reasonable and cannot be said to be arbitrary.

In view of the above, the appeal is dismissed summarily.