

(2025) 01 JH CK 1789

In the Jharkhand High Court

Case No : Miscellaneous Appeal No. 83 Of 2015

National Insurance Company Ltd

APPELLANT

Vs

Mano Devi @ Bhalo Devi

RESPONDENT

Date of Decision : 29-01-2025

Acts Referred:

Code of Civil Procedure, 1908 — Order 16 Rule 6

Citation : (2025) 01 JH CK 1789

Hon'ble Judges : Gautam Kumar Choudhary, J

Bench : Single Bench

Advocate : G.C. Jha, Rajiv Kumar Karan, Lalit Yadav, Abhishek Kumar

Final Decision : Dismissed

Judgement

Gautam Kumar Choudhary, J

1. Insurance Company is in appeal before this Court against the liability for paying compensation being fastened on it.
2. As per the case of the claimants, the deceased- Sikandar Sah died in a motor vehicle accident when he was travelling on Tempo which met with an accident due to rash and negligent driving of the driver of the tracker bearing registration no.JH 15A 0785.
3. The appeal has been preferred mainly on the ground that the driver of the offending vehicle namely Pradeep Kumar Singh was not having valid driving license at the time of accident. Insurance Company filed a petition before the Tribunal for a direction to the owner of the vehicle to produce the driving license, but the same was not produced. Further, on 19.04.2014 a petition filed under Order XVI Rule 6 of the CPC read with Rule 169 of the Motor Vehicle Act, directing the defendant no.1 to produce the original driving license of the driver Pradeep Kumar Singh bearing D.L. No.331/90, but the original driving license was not produced by the owner of the vehicle.

4. It is argued that the laches on the part of the owner of the vehicle for producing original driving license, is sufficient to raise inference that driver was not having valid driving license.

5. It is difficult to be persuaded by this argument. Insurance Company had the name of the driver as well as the number of the driving license. The Investigator/ Surveyor could have verified this and the report could have been led into evidence on behalf of the Insurance Company regarding invalidity of the driving license. If the name or the number of the driving license is not available with the Insurance Company, then adverse inference could have been drawn for non-production of the same by the owner. Original driving license cannot be expected to be kept by the owner of any vehicle as the driver is supposed to carry it.

6. Under the circumstance, failure to produce original driving license by the owner of the vehicle, cannot be a ground to presume that the driver of the offending vehicle was having invalid driving license. I do not find any infirmity in the impugned award.

Miscellaneous Appeal stands dismissed. Interlocutory Application, if any, is disposed of.