

(2000) 10 MP CK 0011
In the Madhya Pradesh High Court
Case No : M.A. No. 458 of 2000

New India Assurance Co. Ltd.

APPELLANT

Vs

Bhagwan Das and Others

RESPONDENT

Date of Decision : 18-10-2000

Acts Referred:

Citation : (2001) ACJ 883

Hon'ble Judges : Shahi Kant Kulshreshtha, J

Bench : Single Bench

Advocate : Sanjay Agrawal, for the Appellant; Ashok Lalwani, for the Respondent

Final Decision : Dismissed

Judgement

S.K. Kulshrestha, J.—In view of order dated 4.10.2000, the parties were heard on admission.

2. Learned counsel for the appellant submits that the insurance company has been jointly and severally saddled with the liability to pay compensation despite the fact that the insurance company had produced the certificate from the office of the concerned R.T.O. that the licence said to have been possessed by the driver of the vehicle had not been issued by the said office. The Tribunal has observed that the appellant had not raised any plea with regard to the driver not possessing the licence and the non-applicant No. 1 Ram Narayan had produced on record a copy of the licence that had been issued by the R.T.O., Shahdol. Learned counsel for the respondent No. 1 has brought to the notice an order dated 28.4.2000 of this court in M.A. No. 726 of 2000 in support of his contention that for proving that the driver did not possess a valid driving licence, it was necessary that the competent authority was examined and relevant document was exhibited to prove that it had not been issued. In the present case, according to the learned counsel for the respondent No. 1, all that the appellant insurance company has produced is a certificate said to have been issued by the concerned R.T.O. to the effect that the licence said to have been

issued by the said office to the driver of the vehicle had not been issued by the office.

3. In the order in M.A. No. 726 of 2000 referred to by the learned counsel, it has clearly been held that unless the competent authority is examined and the relevant record is exhibited to prove that the licence of the driver had in fact not been issued, it cannot be said that the insurance company has discharged its burden to show that vehicle was being driven at the relevant time by a person who did not possess a valid driving licence. It is not disputed by the learned counsel for the appellant insurance company that none was examined from the office of the R.T.O. nor any record from the said office was exhibited to show that the licence claimed to have been issued by the said office to the driver of the vehicle, had in fact not been issued. In this view of the matter, I find no substance in the present appeal and it is, accordingly, dismissed at the motion stage.