(2006) 03 AHC CK 0014

In the Allahabad High Court

New India Assurance Company Ltd. APPELLANT

Vs

Mohsina and Others RESPONDENT

Date of Decision : 28-03-2006

Acts Referred:

Citation : (2007) 1 ACC 75

Hon'ble Judges : Sabhajeet Yadav, J;R.P. Mishra, J

Bench : Division Bench

Judgement

R.P. Mishra, J.—We have heard learned Counsel for the parties.

2. It has been submitted by learned Counsel for the appellant that it was specific issue No. 4 which was raised before the Claim Tribunal that the driver was not having any valid licence, therefore, the Insurance Company is not liable to pay any amount to the claimants rather the liability is on the owner of the vehicle. He relied upon the judgment reported in II (1998) ACC 230 : 1998 (1) TAC 594 Oriental Insurance Co. Ltd. Aska, Banjam v. Uma Charan Bisoy and Ors. In Paragraph 7 of the judgment the Court has observed as under:

7. It has now been settled by the Supreme Court in United India Insurance Co. Ltd. Vs. Gian Chand and others, that if the owner had handed over the vehicle to a driver not having valid driving licence, the Insurance Company will be absolved of its liability and the owner will be liable to pay the compensation awarded. Thus existence of a valid driving licence is a necessary finding before fastening liability. In view of the aforesaid discrepancy between the two documents it is not possible for this Court to come to any definite conclusion without any further evidence.

3. In these circumstances, we remand the case to the claim Tribunal to decide the issue as to whether the driver was having valid licence or not? Thereafter the liability of the compensation be also decided. The matter may be decided within a period of three months from the date of filing of certified copy of this order. The statutory deposits made before this Court be returned to the appellant by Bank

draft.

4. Appeal is allowed and remanded to Claim Tribunal accordingly.