

(2011) 09 DEL CK 0518
In the Delhi High Court
Case No : FAO 606 of 2002

New India Assurance Company Ltd.

APPELLANT

Vs

Sabiran and Others

RESPONDENT

Date of Decision : 22-09-2011

Acts Referred:

Citation : (2011) 09 DEL CK 0518

Hon'ble Judges : Reva Khetrapal, J

Bench : Single Bench

Advocate : Pankaj Seth, for the Appellant;

Final Decision : Dismissed

Judgement

Reva Khetrapal, J.—The sole contention of Mr. Pankaj Seth, the Learned Counsel for the Appellants in the present appeal is that in view of the fact that the learned Motor Accident Claims Tribunal by its judgment and award dated 5th September, 2002 arrived at the finding that the Respondent No. 1 was not having a driving licence to drive a commercial vehicle, the Appellant - Insurance Company should have been exonerated of its liability to pay compensation to the Respondents No. 1 to 7/claimants. Instead the Insurance Company has been directed to pay the award amount within a period 30 days from the date of the passing of the award with liberty to recover the said amount from the Respondent No. 9 - insured.

2. The aforesaid issue arising in the present appeal, which was filed on 28.10.2002, is now covered by a decision of a three-Judge Bench of the Hon"ble Supreme Court in the case of National Insurance Co. Ltd. Vs. Swaran Singh and Others, , wherein it has been held that even in cases where the driver of the offending vehicle is not in possession of a valid and effective driving licence at the time of the accident, the Insurance Company must pay to the claimants the award amount and can recover the same from the insured. The relevant portion of the judgment is quoted below:

100. It is, therefore, evident from the discussions made hereinbefore that the liability of the insurance company to satisfy the decree at the first instance and to recover the awarded amount from the owner or driver thereof has been holding the field for a long time.

101. Apart from the reasons stated hereinbefore the doctrine of stare decisis persuades us not to deviate from the said principle. 102. It is well-settled rule of law and should not ordinarily be deviated from. (See *The Bengal Immunity Company Limited Vs. The State of Bihar and Others*, , *The Keshav Mills Co. Ltd. Vs. Commissioner of Income Tax, Bombay North*, , *Union of India (UOI) and Another Vs. Raghubir Singh (Dead) by Lrs. Etc.*, , *Gannon Dunkerley and Co. and Others Vs. State of Rajasthan and Others*, , *Belgaum Gardeners Cooperative Production Supply and Sale Society Ltd. Vs. State of Karnataka*, , *Hanumantappa Krishnappa Mantur and Ors. v. State of Karnataka* 1992 Cri LJ 405.

3. In view of the aforesaid legal position, the present appeal is not maintainable. The same is dismissed. There shall be no order as to costs.

4. Records of the Claims Tribunal be sent back to the concerned Tribunal.