

(2012) 05 DEL CK 0636

In the Delhi High Court

Case No : MAC. APP. No. 260 of 2011 and CM. Appl 5828 of 2011

Oriental Insurance Co. Ltd.

APPELLANT

Vs

Mohd. Avdul and Others

RESPONDENT

Date of Decision : 10-05-2012

Acts Referred:

Citation : (2012) 05 DEL CK 0636

Hon'ble Judges : G.P. Mittal, J

Bench : Single Bench

Advocate : Manjusha Wadhwa, for the Appellant;

Final Decision : Dismissed

Judgement

G.P. Mittal, J.—The Appellant impugns a judgment dated 12.01.2011 whereby while awarding a compensation of Rs. 3,75,000/- in favour of the Respondents No. 1 and 2, the Appellant's plea for exoneration to satisfy the award was rejected. The case of the Appellant Insurance Company is that the driving licence held by the Respondent No. 3 Sonu on investigation was found to be fake. I need not delve into this question in detail as it is established on record that the owner of the vehicle Respondent No. 4 took reasonable care to see that the vehicle (two-wheeler No. DL-9SV-0974) is driven by a duly licensed person. The owner's testimony (as R2W1) that the Respondent No. 3 borrowed the vehicle from him for some urgent work and he saw the driving licence possessed by the Respondent No. 3 which appeared to be in order, was not challenged in the cross-examination.

2. The case is squarely covered by the judgment of the Supreme Court in United India Insurance Company Ltd. Vs. Lehu and Others, and National Insurance Co. Ltd. Vs. Swaran Singh and Others, . The Appellant was rightly fastened with the liability to indemnity the insured.

3. The Appeal is without any merit; the same is accordingly dismissed.

4. The balance amount lying with the Registrar General of this Court shall be released in favour of the Respondents No. 1 and 2 in terms of the order passed by the Claims Tribunal. The statutory amount of Rs. 25,000/- shall be refunded to the Appellant Insurance Company.