

(2001) 11 AHC CK 0110
In the Allahabad High Court
Case No : F.A.F.O. No. 1509 of 2001

Oriental Insurance Co. Ltd.	Vs	APPELLANT
Nathuni Prasad and Another		RESPONDENT

Date of Decision : 29-11-2001

Acts Referred:

Citation : (2002) 2 ACC 304 : (2003) ACJ 1604

Hon'ble Judges : V.M. Sahai, J;Sudhir Narain, J

Bench : Division Bench

Advocate : Manish Goyal, for the Appellant;

Final Decision : Dismissed

Judgement

Sudhir Narain and V.M. Sahai, JJ.—This appeal is directed against the award of the Motor Accidents Claims Tribunal dated 31.5.2001 awarding Rs. 2,57,413 as compensation to the claimant-respondent.

2. The claim petition was filed with the allegations that Nathuni Prasad was going in jeep No. UP 57-2833 towards his house. The driver of the jeep dashed against the Tempo with the result, he received serious injuries. His left leg was fractured and he was taken to the hospital. He has spent Rs. 50,000 on medical treatment. He was aged about 30 years and was carrying on the business of sale of readymade clothes and doing agriculture and was earning Rs. 3,000 per month.

3. The claim petition was contested by the appellant. It was denied that the accident was caused by rash and negligent driving of the vehicle in question. The driver of the jeep had no valid licence and the amount claimed was excessive.

4. The Tribunal recorded a finding that the accident was caused due to rash and negligent driving of the jeep driver involved in the accident. The driver had a licence and on assessment of evidence, awarded a sum of Rs. 2,57,413 as compensation. This order has been challenged in the present appeal.

5. We have heard Mr. Manish Goyal, learned Counsel for the appellant who

submitted that the accident had taken place on 7.9.1999. The driving licence was produced by the claimant-respondent which showed that the driver has a licence for the period 31.5.1996 to 30.5.1998 and another licence for the period from 26.10.1999 to 25.10.2001 but there was no evidence adduced on behalf of claimant-respondent that the driver had a licence on the date of the accident, i.e., 7.9.1999. The burden was upon the appellant to establish that the driver had no valid licence for the period between 31.5.1998 and 25.10.1999. It relied upon the report of its own Inspector. He also appeared as PW 1 but he did not state that on the date of the accident the driver had no valid licence.

6. Secondly, if a driver had a valid licence and it was again renewed in his favour, it shall be taken that he was competent to drive the vehicle. The claim petition cannot be dismissed on the ground that he had no valid licence.

7. In view of the above, we do not find any merit in the appeal and it is, accordingly, dismissed.

8. The amount of Rs. 25,000 deposited in this Court by the appellant shall be remitted to the Tribunal within one month from today by the Registry and shall be adjusted in the deposits to be made by the appellant.