(2009) 03 JH CK 0054

In the Jharkhand High Court

Oriental Insurance Company Ltd. APPELLANT

Vs

Smt. Bimla Devi and Others
 Smt. Basanti Mukhi and Others Vs Smt. Deepa Kaura and Others
 Lata Devi and Others Vs Shanti Devi and Others RESPONDENT

Date of Decision : 23-03-2009

Acts Referred:

Citation : (2009) 2 JCR 450

Hon'ble Judges : M.Y. Eqbal, J;Jaya Roy, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Since all these appeals arose out of the judgments arising out of the same accident and they are involved in common question of law, they have been heard together and are disposed of by this common judgment.

2. By the impugned judgment and award the Motor Accident Claims Tribunal, Jamshedpur awarded compensation for the death of the deceased in a motor accident holding that the appellant who is the insurer of the road transport bus is liable to pay compensation since the vehicle was insured with the appellant.

3. It appears that on the unfateful date of accident the deceased was travelling in a Tata Sumo vehicle which was dashed by the Bihar State Road Transport Corporation Bus which was being driven rashly and negligently and caused death of so many persons. The claimants case was contested by the appellant, who is the insurer of the bus on the ground, inter alia, that the driver of the offending bus was not holding valid driving licence. The Tribunal held that on the relevant date of accident, the driver of the bus was holding a valid driving licence. Hence, the Insurance Company cannot be exonerated from its liability.

4. Mr. Alok Lal, learned Counsel appearing for the appellant-Insurance Company mainly argued that one Compensation Case being Compensation Case No. 143 of 2005 was also filed for compensation for the death caused in the same accident.

In that case, the appellant took the same defence that the driver of the bus was not holding a valid driving licence. The Tribunal by judgment dated 25th June, 2007 held that the driver was not holding a valid driving licence and exonerated the Insurance Company from its liability. However, the Tribunal held that the appellant- Insurance Company shall pay the amount and recover the same from the Road Transport Corporation. Learned Counsel submitted that the Tribunal has taken a contradictory view in all these compensation cases which are the subject matter of these appeals.

5. We do not find any force in the submission of learned Counsel appearing, for the appellants. In Compensation Case No. 143 of 2005 since no driving licence was produced by the respondents and therefore, it was held that the Tribunal was not holding a valid driving licence. For better appreciation the relevant portion of the paragraph 9 of the aforesaid judgment is quoted herein below:

So far the driving licence of the driver Niranjan Kumar Mishra of the bus JH05G-9887 is concerned the plea of the claimants mentioned in para 9(a) of the application is that his driving licence No. was 5944/88 was valid upto 10/10/1996 issued by D.T.O. Bhagalpur. The date of said accident is 6/6/2004. Hence it is clear from the claimants/applications that on the day of accident the driving licence of the bus was not valid. No driving licence of the driver of bus has been exhibited to show that it was valid during said accident.

6. From the last two lines of the aforesaid quotation, it is manifestly clear that no driving licence of the driver of the bus was exhibited to show that it was a valid driving licence.

7. In the instant case, the driving licence of the driver of the bus was produced and exhibited. Now the appellant is taking the plea that as per the report of the surveyor who conducted survey it was found that the original licence was issued from Ranchi which was fake licence and the same was renewed at Bhagalpur. Admittedly the licence which was renewed by the Bhagalpur D.T.O. for the period 11.10.2003 to 10.10.2006 and during this period the accident had taken place. The surveyor who conducted the survey has not been examined to substantiate the plea taken by the appellant-Insurance Company. On the contrary it transpires from the driving licence that the driver was holding driving licence since 1981 and he had a experience to drive the vehicle for more than 20 years. In our view, therefore, the defence taken by the appellant-Insurance Company is untenable and without any basis.

8. For the reasons aforesaid, we do not find any reason to interfere with the impugned judgment and award passed by the Tribunal. Hence, all these appeals are dismissed.

