
(2003) 01 AHC CK 0055
In the Allahabad High Court
Case No : F.A.F.O. No. 208 of 2003

United India Insurance Co. Ltd.

APPELLANT

Vs

Ramashray Chauhan and Another

RESPONDENT

Date of Decision : 28-01-2003

Acts Referred:

Motor Vehicles Act, 1988 — Section 166, 173

Citation : (2003) 2 ACC 333 : (2003) 2 AWC 1158

Hon'ble Judges : S.P. Srivastava, Acting C.J.; Ashok Bhushan, J

Bench : Division Bench

Advocate : Satish Chaturvedi, for the Appellant; S.D. Ojha, for the Respondent

Final Decision : Dismissed

Judgement

S.P. Srivastava, A.C.J.

1. Heard learned counsel for the insurer-appellant. Sri S. D. Ojha, learned counsel for the claimant-respondents, who has put in appearance at this stage, has also been heard.

2. The present appeal has been filed by the insurer-appellant feeling aggrieved by the award of an amount of Rs. 2,30,090, determined as just compensation by the Motor Accident Claims Tribunal, to which the claimant-respondent No. 1 was found entitled to on account of 80 per cent disability suffered by him on account of the accident involving the offending motor vehicle, which had been insured by the present appellant covering the risks.

3. Learned counsel for the appellant has strenuously urged that there was a breach of the terms and conditions subject to which the insurance policy had been issued by the appellant covering the risk. The contention is that the claimant had failed to establish that the offending motor vehicle was being driven by a person having a valid driving licence issued under the provisions of the Motor Vehicles Act.

4. So far as this aspect of the matter is concerned, the Tribunal has returned a finding negating the contention of the insurer, placing reliance on the photostat copy of the driving licence produced by the claimant which was found to be acceptable. It has been urged by the learned counsel for the appellant that the photostat copy of the driving licence was not admissible in evidence and, therefore, it should not have been relied upon. In this connection, the learned counsel for the appellant has placed reliance upon the observations of the Apex Court made in its decision in the case of *United India Insurance Co. Ltd. v. Anbari and Ors.* 2000 (2) TAC 789 . A perusal of the aforesaid decision indicates that when the fact of existence of a valid driving licence is challenged by the insurer and the Insurer also denies the genuineness of the photostat copy of the driving licence, in that event, in case a photostat copy of the driving licence is accepted in evidence and on its basis, a finding is returned against the insurer, that may result in an error of law, but in the absence of any such challenge about the existence of the valid driving licence or genuineness of the photostat copy, no such result can automatically follow.

5. In the present case, the insurer had at no stage challenged the correctness of the photocopy or genuineness of the photocopy of the driving licence. In such circumstances, it was open to the Tribunal to place reliance upon the photostat copy of the driving licence, which was brought on record as an evidence to establish that the offending motor vehicle was being driven by a person having a valid licence issued under the provisions of the Motor Vehicles Act. The finding returned by the Tribunal on the aforesaid aspect cannot be held to be vitiated in law.

6. Learned counsel for the appellant has tried to assail the other findings returned by the Tribunal against the appellant but has not been able to demonstrate that these findings can be said to be suffering from any such legal infirmity which may justify an interference. These findings are amply supported by evidence and materials brought on record.

7. Taking into consideration the totality of the circumstances, the amount of compensation awarded by the Tribunal cannot be held to be unjust.

8. No justifiable ground can be said to have been made out for any interference by this Court in the impugned award.

9. The appeal is devoid of merit and is dismissed.