

(2001) 11 AHC CK 0117
In the Allahabad High Court
Case No : F.A.F.O. No. 1520 of 2001

United India Insurance Co. Ltd.

APPELLANT

Vs

Shadma Begum and Others

RESPONDENT

Date of Decision : 29-11-2001

Acts Referred:

Citation : (2002) 2 ACC 610 : (2002) ACJ 1185

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

Bench : Division Bench

Advocate : A.K. Srivastava, for the Appellant; S.S. Chauhan, for the Respondent

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 25.5.2001 directing the appellant to pay a sum of Rs. 3,24,000 as compensation to the claimants-respondents.

2. The claim petition was filed with the allegations that Nasim Ullah alias Toni (deceased) was going with his wife and three minor daughters from Delhi to Ali-garh by his Maruti car No. DL C-B 0305. The truck Tata No. HR 26-7992 coming from the opposite direction, dashed against the Maruti car, with the result Nasim Ullah died leaving behind him, his widow and three minor daughters. It was alleged that the accident was caused due to rash and negligent driving of the truck driver. The petition was contested by the appellant on various grounds. It was alleged that the truck in question was not insured with the appellant on the date of the accident. The accident was not caused due to rash and negligent driving of the truck driver. The Tribunal, on assessment of evidence, came to the conclusion that the vehicle in question was insured by the appellant on the date of the accident. The accident was caused by the truck driver and on assessment of evidence, came to the conclusion that the appellant was liable to pay compensation of Rs. 3,24,000. This order has been challenged in the present appeal.

3. We have heard Mr. A.K. Srivastava, the learned Counsel for the appellant and Mr. S.S. Chauhan, learned Counsel for the claimants-respondents,

4. Learned counsel for the appellant vehemently urged that the vehicle in question was not under the insurance on the date, the accident had taken place. The accident took place on 24.5.95. It is contended that the policy was affective from 29.5.1995 to 28.5.1996 and on the date of accident, the vehicle in question was not under insurance.

5. Admittedly, the vehicle in question was earlier insured with the appellant. It was insured for the period between 11.5.94 and 10.5.1995. This insurance policy was renewed. The question is on what date the cover note was issued for the renewal of the policy. The version of the claimants-respondents was that the agent of the appellant had taken the amount in cash on 11.5.1995 and the cover note was issued accordingly. The appellant produced Mr. Deepak Sharma as DW 1 who was Branch Manager of the appellant. He stated that the vehicle was insured for the period 11.5.1994 to 10.5.1995 and later on it was insured w.e.f. 29.5.1995 for the period up to 28.5.1996.

6. The liability of the insurance company starts from the date when the cover note is issued to the insured and not from the date the amount of premium is received in its office. If the amount of the premium has been received earlier but noted in its office later on the insurance policy will come into effect from the date, the amount of insurance is received and a cover note is issued. The appellant did not produce its agent. In United India Insurance Co. Ltd. Vs. Kamlesh Singh and Others, a Division Bench of this Court held that the insurance becomes effective from the date the cover note is issued by an agent of the insurance company. The insurer is liable for payment of compensation on the basis of the cover note issued by the agent and the negligence or mistake of the agent will not affect the liability of the insurance company. It is open for the company to take action against its agent. The appellant did not produce its agent who had taken the amount of premium from the owner of the vehicle in question.

7. 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.