
(1989) 01 RAJ CK 0004

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 172 of 1986

United India Insurance Company Ltd.

APPELLANT

Vs

Ghisi Devi and Others

RESPONDENT

Date of Decision : 17-01-1989

Acts Referred:

Motor Vehicles Act, 1939 — Section 92A, 96

Citation : (1989) 01 RAJ CK 0004

Hon'ble Judges : N.M. Kasliwal, J

Bench : Single Bench

Advocate : S.C. Srivastava, for the Appellant; D.L. Bardar and G. Bardar, for the Respondent

Final Decision : Dismissed

Judgement

N.M. Kasliwal, J.—Heard Learned Counsel for the parties. This appeal by the United India Insurance Company Ltd. is directed against an order passed by the learned Motor Accidents Claims Tribunal, Jaipur dated 19.4.1986. The Tribunal has awarded an amount of Rs. 15,000/- to the claimants u/s 92-A of the Motor Vehicles Act, 1939. Mr. Srivastava, Learned Counsel for the Appellant, has contended that the accident in the present case took place on 2.12.1984 and at that time the driver of the tractor had no licence. It has been submitted that the driver got the licence on 2.3.1985 and in these circumstances the insurance company was not liable to pay any compensation for the accident which took place on 2.12.1984.

2. On the other hand, Mr. Bardar, Learned Counsel for the claimants, submitted that the compensation of Rs. 15,000/- is allowed on the basis of no fault liability u/s 92-A of the Act. It has been further submitted that the Tribunal cannot make any enquiry with regard to the merits of the liability at this stage and cannot make any enquiry in the defences available to the insurance company in the main case. Reliance in support of the above contention is placed on New India Assurance Co. Ltd. Vs. Minguel Correia and Others, The New India Assurance

Company Ltd. Vs. Member, Motor Accident Claim Tribunal and Others, and National Insurance Co. Vs. Surjit Singh and Others,

3. I have perused the impugned order passed by the learned Tribunal. The contention which has been raised by Learned Counsel for the Appellant before this Court was not raised before the Tribunal. That apart, Section 92-A provides for the award of compensation on the basis of no fault liability and the Tribunal cannot enquire the merits of the defences available to the insurance company u/s 96 of the Act. In case the insurance company ultimately proves that it was not liable to pay any compensation, then the insurance company can claim the amount from the owner of the vehicle u/s 96 of the Act. The cases cited by Mr. Bardar support the view taken by me.

4. In the result, I find no force in this appeal and it is accordingly dismissed with costs.