

(2011) 09 DEL CK 0527

In the Delhi High Court

Case No : FAO 86 of 2003

United India Insurance Company Ltd.

APPELLANT

Vs

Kamlesh Kumar and Others

RESPONDENT

Date of Decision : 26-09-2011

Acts Referred:

Citation : (2011) 09 DEL CK 0527

Hon'ble Judges : Reva Khetrpal, J

Bench : Single Bench

Advocate : Sakshi Gupta, for the Appellant; Nitinjya Chaudhary and Sushma Sachdeva for the Respondent No. 3, for the Respondent

Final Decision : Dismissed

Judgement

Reva Khetrpal, J.—The only point sought to be urged in this appeal by the Learned Counsel for the Appellant-Insurance Company is that the Insurance Company is entitled to total exoneration from the payment of the award amount, and the learned Motor Accident Claims Tribunal ought to have afforded the said relief to the Appellant-Insurance Company instead of directing the Insurance Company to pay the award amount to the Respondent No. 1 with liberty to recover the said amount from the Respondent No. 3-insured after satisfying the award.

2. The aforesaid aspect is now well-settled by the decision of a three-Judge Bench of the Hon"ble Supreme Court in the case of National Insurance Co. Ltd. Vs. Swaran Singh and Others, , wherein it has been held that even in cases where the driver of the offending vehicle is not in possession of a valid and effective driving licence at the time of the accident, the Insurance Company must pay to the claimants the award amount and can recover the same from the insured. The relevant portion of the judgment is quoted below:

100. It is, therefore, evident from the discussions made hereinbefore that the liability of the insurance company to satisfy the decree at the first instance and

to recover the awarded amount from the owner or driver thereof has been holding the field for a long time. 101. Apart from the reasons stated hereinbefore the doctrine of stare decisis persuades us not to deviate from the said principle.

102. It is well-settled rule of law and should not ordinarily be deviated from. (See The Bengal Immunity Company Limited Vs. The State of Bihar and Others, , The Keshav Mills Co. Ltd. Vs. Commissioner of Income Tax, Bombay North, , Union of India (UOI) and Another Vs. Raghubir Singh (Dead) by Lrs. Etc., , Gannon Dunkerley and Co. and Others Vs. State of Rajasthan and Others, , Belgaum Gardeners Cooperative Production Supply and Sale Society Ltd. Vs. State of Karnataka, , Hanumantappa Krishnappa Mantur and others Vs. State of Karnataka, .

3. In view of the law laid down by the Hon''ble Supreme Court, I find no reason to interfere with the award. The deposited amount shall be released to the claimant with interest thereon. Any shortfall shall be made good by the Insurance Company within 30 days from today.

4. The appeal is dismissed. There shall, however, be no order as to costs.

5. Records of the Claims Tribunal be sent back to the concerned Tribunal forthwith.