

S.B. Civil Misc. Appeal No.1093/2005

New India Assurance Co. Ltd.

vs.

Bhagwan Lal and others.

Date : 30.8.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. RK Mehta, for the appellant.

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Heard learned counsel for the appellant.

According to learned counsel for the appellant, before the Motor Accident Claims Tribunal, a claim petition was filed by one Bhagwan Lal alleging that one Saleg Ram was driver of vehicle and Sagar Mal was co-passenger. An objection was raised before the learned Tribunal against not impleading driver of the vehicle. The claim petition was withdrawn and has been filed before the workmen's Compensation Commissioner by alleging that deceased Sagar Mal was the driver on the jeep no. RJ 30C 1506.

According to learned counsel for the appellant, Sagar Mal had no driving license with him, therefore, the insurance company is not liable and the learned Commissioner committed illegality in holding the liability of interest upon the appellant company.

I have considered the submissions of learned counsel for the appellant.

So far as the argument which has been raised on the ground of Sagar Mal being not driver of the vehicle is concerned, that argument was not advanced before the Commissioner. The Commissioner, as a matter of fact, decided the issue on the basis of evidence that Sagar Mal was driver appointed to drive jeep and that fact has been admitted by owner of the vehicle also, therefore, such a finding of fact cannot be interfered in the appeal against the award under Section 30 of the Workmen's Compensation Act.

So far as the driver Sagar Mal having no driving license is concerned, no evidence has been produced by the appellant company, therefore, this objection cannot be allowed.

The award of interest is not in dispute but the appellant is disputing the liability to pay interest. I do not find any legal position that the appellant company is not liable to pay the amount.

Accordingly, this appeal, having no merit, is hereby dismissed.

(PRAKASH TATIA), J.

S. Phophaliya