

**(2012) 12 AHC CK 0219**

**Allahabad High Court (Lucknow Bench)**

**Case No:** First Appeal From Order No. 278 of 2011 and 275 of 2011

Oriental Insurance Co. Ltd.

APPELLANT

Vs

Rajesh Kumar and Others

RESPONDENT

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**Date of Decision:** Dec. 17, 2012

**Acts Referred:**

- Motor Vehicles Act, 1988 - Section 173

**Citation:** (2013) 1 AWC 605

**Hon'ble Judges:** Devi Prasad Singh, J; Arvind Kumar Tripathi, J

**Bench:** Division Bench

**Advocate:** Anil Srivastava, for the Appellant; Krishna Chandra and Shakeel Ahmad Ansari in Appeal No. 275 and 278 of 2011, for the Respondent

**Final Decision:** Dismissed

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### **Judgement**

Devi Prasad Singh and Arvind Kumar Tripathi II, JJ.

Heard learned counsel for the parties. Both the appeals involve common question of law and fact, hence, we proceed to decide by a present common judgment.

2. Appeal No. 278 of 2011 has been filed u/s 173 of the Motor Vehicles Act, 1988 against the award dated 7.12.2010 in Motor Accident Claim Case No. 422 of 2004 passed by the Motor Accident Claims Tribunal-cum-Additional District Judge, Court No. 9, Lucknow.

3. Appeal No. 275 of 2011 has been filed u/s 173 of the Motor Vehicles Act, 1988 against the award dated 7.12.2010 in Motor Accident Claim Case No. 424 of 2004 passed by the Motor Accident Claims Tribunal-cum-Additional District Judge, Court No. 9, Lucknow.

4. In both the appeals controversy relate to same accident occurred on 1.10.2004 at about 2.00 p.m. with tractor bearing No. U.P. 32-AN-6292 in which deceased namely Smt. Manju succumb to injuries and one another victim Smt. Malti Devi suffered

grievous injuries. The Tribunal recorded a finding that the driver of the tractor was not possessing valid driving licence, hence, shifted liability to the appellant to pay the same with right to recover from the claimant respondent. Owner of the vehicle had not preferred any appeal against the impugned award. We do not find any reason to interfere with the impugned award. Impugned order passed by the Tribunal does not suffer from any perversity or illegality.

5. Learned counsel for the appellant and respondent also not invited attention of this Court towards any substantial illegality committed by the Tribunal. Accordingly, we dismiss the appeals with liberty to appellant to recover the amount paid in terms of impugned award from the owner of the vehicle. Amount deposited in this Court shall be remitted forthwith to the Tribunal and Tribunal shall disburse entire compensation in terms of award. Tribunal shall disburse the amount within next two months. In case, any application is moved to recover the dues from the owner of the vehicle the Tribunal shall consider and decide the application expeditiously to its logical end.