

**SUPREME COURT OF INDIA**

Oriental Insurance Co. Ltd.

Vs.

Jyotsna Sarkar

C.A.No.1303 of 2002

(Harjit Singh Bedi and B. Sudershan Reddy JJ.)

30.04.2009

**ORDER**

1. This appeal is at the instance of the Insurance company against the impugned judgment of the High Court dated 2/1/2001 dismissing the appeal filed by the Insurance company in limine at the admission stage itself. The only grievance made by learned counsel for the appellant is that in view of the observations recorded by the tribunal in its award dated 23/2/2000, it appears the licence of the driver of the vehicle had not been issued by the DTO Kamrup and as such the licence produced by the driver was a fake one. He has accordingly prayed that in this situation the owner of the vehicle be directed to reimburse the sum awarded to the claimant which has admittedly been paid in the meanwhile. Notices have been issued to the owner- respondent No.2 and he has not put in appearance, though served. The record also discloses that he had not appeared before the tribunal as well and that he had been proceeded against ex-parte. In this view of the matter, we allow this appeal, set aside the impugned order of the High Court dated 2/1/2001 and direct that it will be open to the appellant Insurance company to recover the compensation money from the owner of the vehicle, respondent No.2. There will be no order as to costs.