

* HIGH COURT OF DELHI : NEW DELHI

MAC APP. No.346/2004

% Judgment reserved on: 12th November, 2009

Judgment delivered on: 19th November, 2009

Oriental Insurance Company Ltd.,
Bombay Life Building,
N-34, Connaught circus,
New Delhi.

Through its Deputy Manager,
Oriental Insurance Co. Ltd.
86-88, Janpath,
New Delhi- 110 001.

....Appellant

Through: Mr. Madhurendra Kumar, Adv.

Versus

1. Shri Rajinder,
S/o Sh. Shanti Swaroop,
Working in Bareilly Corpn. Bank Ltd.
Padam Singh road,
Karol Bagh,
New Delhi.
R/o 5/9A, Phase-III,
Ashok Vihar,
New Delhi.

2. Sh. Baljeet Singh,
R/o B-11/169, Geeta Colony,
Delhi.

3. Sh. Kehar Singh,
S/o Sh. Mangal Singh,
R/o 11/169, Geeta Colony,
Delhi.

....Respondents.

Through: Nemo

Coram:
HON'BLE MR. JUSTICE V.B. GUPTA

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| 1. Whether the Reporters of local papers may be allowed to see the judgment? | Yes |
| 2. To be referred to Reporter or not? | Yes |
| 3. Whether the judgment should be reported in the Digest? | Yes |

V.B.Gupta, J.

Question for consideration in the present appeal is whether driver had a valid licence at the time of accident?

2. Brief facts are that respondent no.1 filed a petition claiming compensation of Rs. 8,00,000/- (Rupees Eight Lakhs only) on account of injuries sustained by him in a road accident. Respondent no. 2 was the driver, while respondent no. 3 was the insured of the offending vehicle. Trial court vide judgment dated 12th January, 2004, awarded compensation to respondent no. 1.. Appellant being the insurer was directed to make the payment.

3. Aggrieved by the impugned judgment, appellant i.e. Insurance Company has filed this appeal. Notice of this appeal was issued to respondents no. 2 and 3 only. Initially, counsel appeared on their behalf, but later on he absented.

4. It is contended by learned counsel for appellant that driver of the insured vehicle was not holding a valid driving licence at the time of accident i.e. on 21st August, 1996. The driving licence of the driver was valid till 17th July, 1994 and same was got renewed on 16th October, 2001 to be valid till 9th October, 2004. Under these circumstances, driver was not holding a valid and effective driving

licence at the time of accident. The appellant has led evidence to this effect also and trial court wrongly holds otherwise.

5. In support, learned counsel for appellant cited following judgments;

- (i) *New India Assurance India Ltd. VS. Suresh Chandra Aggarwal*; 2009 (9) Scale 449;
- (ii) *National Insurance Co. Ltd. Vs. Swaran Singh and Others*; (2004) 3 Supreme Court Cases 297 and;
- (iii) *National Insurance Company Ltd. Vs. Jarnail Singh and Ors*; Civil Appeal No. 7244 of 2001 decided on 17th October, 2001.

6. Questions to be seen in the present case are;

- (i) Whether driver had the driving licence;
- (ii) Whether after its expiry he got it renewed and;
- (iii) Whether application for renewal was made more than 30 days after the date of its expiry.

7. Section 15 of the Motor Vehicle Act, 1988 (for short as Act) which provides for renewal of driving licence, insofar as it is relevant in this case, reads as follows:

“15.Renewal of driving licences-

(1) Any licensing authority may, on application made to it, renew a driving licence issued under the provisions of this Act with effect from the date of its expiry:

Provided that in any case where the application for the renewal of a licence is made more than thirty days after the date of its expiry, the driving licence shall be renewed with effect from the date of its renewal:

The Section empowers a licensing authority to renew a driving licence issued under the provisions of the Act with effect from the date of its expiry. However, proviso to the said provision clearly provides that where an application for renewal of a licence is made more than 30 days after the date of its expiry, the driving licence shall be renewed with effect from the date of its renewal.

8. Trial court in the impugned judgment regarding driving licence observed;

“By the testimony of R3W2 Sh. Om Parkash, LDC, RTO, Kota had produced the record regarding the driving licence No. 79414 dated 12.07.1988 issued in the name of Sh. Baljeet Singh from their authority, copy of which has been proved as R3W2/A. He further deposed that the same licence was valid till 17.07.1994 and was renewed on 16.10.2001. This licence Ex. R3W2/A was issued for plying Motorcycle and HMV and the same was valid w.e.f. 17.07.1994 to 18.07.1997 and therefore I find that respondent no. 1 was having a valid and effective driving licence at the time of accident”.

9. Appellant in support of its case examined R3W-1 Sh. Ishwar Singh, Asst. Manager, who has stated that driving licence of Baljeet Singh was verified from Transport Authority Kota, through their investigator. After verification, Sh. Rajiv Tiwari (the investigator) sent his report Ex. R3W1/B. As per this report, Baljeet Singh had driving licence from 18th July, 1991 to 17th July, 1994 and thereafter, on 10th October, 2001 to 9th October, 2004.

10. Other witness R3W2 Om Parkash Soni, Clerk, from RTO, Kota, had brought the record. As per his statement, Driving Licence No. 79414 dated 12th July, 1988 is in the name of Baljeet Singh (respondent driver in this case). Copy

of the same has been proved as Ex. R3W2A valid till 17th July 1994. He further stated that the same was got renewed on 16th October, 2001.

11. In cross-examination he stated that photocopy of the extract of the register brought by him is Ex. R3W2/PA. He denied that the said licence was renewed from 17th February, 1994 to 18th July, 1997, as per endorsement on the said extract.

12. Respondent-Baljeet Singh (driver) has appeared as R1W1. He in his cross-examination stated that he has having driving licence but has not brought the same. He denied that his driving licence is fake. He also stated that his driving licence for heavy motor vehicle was issued from Kota.

13. No suggestion was given to the driver on behalf of the appellant that on the date of accident, he was not having a valid driving licence or he has not got his driving licence renewed within the prescribed period of 30 days after its expiry. On the other hand, only suggestion given to the driver was that his driving licence is fake.

14. Moreover, the appellant did not examine their primary witness, namely, Rajiv Tiwari (Investigator) who had verified the driving licence from Transport Authority, Kota.

15. Nevertheless, as per driving licence Ex. R3W2/A, produced by the official from the authority of Kota, this licence was issued on 12th July, 1988 and thereafter, it had been renewed from time to time and was valid till 9th October, 2004. None of the official of the appellant had stated that respondent-Baljeet

Singh was not having driving licence from 17th July, 1994 till 16th October, 2001. There is nothing on record to show that respondent-Baljeet Singh who had the valid driving licence till 17th July, 1994 did not get the same renewed within the period of thirty days. As per driving licence Ex. R3W2/A, the driver was having valid driving licence w.e.f. 1988 till 9th October, 2004. Under these circumstances, on the date of accident i.e. 21st August, 1996, the driver was having a valid driving licence.

16. There is no dispute about the principles of law as enunciated in the various judgments cited by learned counsel for appellant. However, these judgments are not applicable to the facts of the present case, as it was nowhere put to the driver when he appeared in the witness box, that he was not having a driving licence on the date of accident. Thus, there is no ambiguity in the impugned judgment.

17. Present appeal is not maintainable and same is dismissed.

18. Parties shall bear their own costs.

19. Trial court record be sent back.

November 19, 2009
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V.B.Gupta, J.