*IN THE HIGH COURT OF DELHI AT NEW DELHI

+ MAC.APP.No.447/2009

Date of Decision: 2nd December, 2009

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RADHEY SHYAM ..... Appellant
Through : Mr. Varun Kumar, Adv.

versus

KANTA DEVI & ORS ..... Respondents
Through : Ms. Sonia Sharma, Adv. for R-4.

CORAM :-
THE HON'BLE MR. JUSTICE J.R. MIDHA

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

JUDGMENT (Oral)

1. The appellant has challenged the award of the learned Tribunal whereby the recovery rights have been given to respondent No.4 to recover the award amount from the appellant after making the payment to the claimants.

2. The accident dated 11th June, 2005 resulted in the death of Simran and injuries to Madan Lal and Kanta Devi. Three separate claim petitions were filed in respect of the death of Simran and injuries to Madan Lal and Kanta Devi. All the three petitions were decided together and a common award was passed by the learned Tribunal awarding Rs.2,75,000/- in respect of the death of Simran and Rs.48,500/- in respect of the

injuries suffered by Madan Lal and Rs.19,200/- in respect of the injuries suffered by Kanta Devi.

3. Respondent No.4 contested the claim petition on various grounds inter-alia that the driving licence held by respondent No.3 was fake and, therefore, respondent No.4 was not liable. The learned Tribunal accepted the plea of respondent No.4 and held that driving licence of respondent No.3 to be fake and granted recovery rights to respondent No.4 to recover the award amount from the appellant.

4. The appellant has filed this appeal on the ground that the driving licence held by respondent No.3 was genuine.

5. The claimants placed on record the photocopy of the driving licence bearing No.468/2004 dated 27th July, 2004 issued by the District Transport Authority, Muzaffarpur valid for the period from 23rd July, 2004 to 16th March, 2006.

6. Respondent No.4 got the said licence verified through their investigator, Mr. Arvind Kumar, who certified vide report dated 10th April, 2006 that the aforesaid driving licence bearing No.468/2004 held by the appellant was genuine. The investigator also mentioned in his report that the old licence number held by respondent No.3 was C01052000142788/2000 issued by the Transport Authority Delhi. Respondent No.4 thereafter approached the Transport Department, Delhi to verify the previous licence held by respondent No.3. The Transport Authority, Delhi vide report dated 9th October, 2006 stated that the licence bearing No. C01052000142788/2000 was issued by them in the name of Rohtash Singh for the

period from 17th May, 2000 to 16th May, 2003 and not in the name of respondent No.3. On the basis of the aforesaid verification report, respondent No.4 summoned the witness from the Transport Department who appeared as R3W1 and produced the record of licence No.C01052000142788/2000 and deposed that the said licence pertains to the Rohtash Singh and not in the name of Ravinder Singh, i.e. respondent No.3. The computerized attested copy of the report was exhibited as Ex.R3W1/1.

7. The learned counsel for the appellant submits that the previous licence number held by the appellant was No.C01052000142789/2000 for the period from 17th May, 2000 to 16th May, 2003 issued by the Transport Department, Delhi and the said licence was genuine. The appellant placed on record the report dated 12th February, 2009 issued by the Transport Authority, Government of NCT of Delhi certifying the said licence to be genuine.

8. Vide order dated 16th April, 2009, respondent No.4 was directed to verify the driving licence No.C01052000142789/2000 filed by the appellant pertaining to respondent No.3. Respondent No.4 has got the aforesaid licence verified through their investigator. The report of the investigator dated 8th July, 2009 and the verification report issued by the Transport Department, Delhi has been placed on record. The investigator has confirmed that the driving licence bearing No.C01052000142789/2000 is genuine.

9. The verification report filed by the appellant as well as by respondent No.4 pertaining to the licence No.C01052000142789/2000 is the same and both the said reports confirm that the aforesaid licence is genuine. The subsequent licence No. No.468/2004 issued by Transport Authority, Muzaffarpur has also been verified by respondent No.4 to be genuine by their investigator and the report of the investigator appointed by respondent No.4 is on record of the learned Tribunal. In view of the aforesaid reports, it is held that the appellant was holding a valid driving licence at the time of the accident. The finding of the learned Tribunal that the driving licence of the driver was fake is set aside.

10. Respondent No.4 has mislead the learned Tribunal to hold that the driving licence held by the appellant was fake. The driving licence of respondent No.3 placed on record of the learned Tribunal by the claimants was No.468/2004 issued by the Transport Authority, Muzaffarpur which was confirmed by the investigator appointed by respondent No.4 to be genuine. However, the investigator in his reports dated 3rd April, 2006 and 10th April, 2006 mentioned a wrong old licence number, namely No.C01052000142788/2000 instead of No.C01052000142789/2000. The wrong old licence number mentioned by the investigator in the aforesaid reports was verified by the Transport Authority, Delhi who certified that the licence No.C01052000142788/2000 was held by Rohtash Singh and not by respondent No.3. If the investigator of respondent

No.4 would have given the correct old licence number, the present controversy would not have arisen.

11. Be that as it may, the controversy has now been resolved by the appellant by providing correct old licence number which has been verified by the Transport Authority, Delhi to be genuine.

12. The appeal is accordingly allowed and the impugned award is set aside in so far as the learned Tribunal has granted recovery rights to respondent No.4 to recover the award amount from the appellant.

13. Copy of this order be given 'Dasti' to learned counsel for both the parties under signatures of Court Master.

14. The learned counsel for the appellant submits that he has paid the award amount of Rs.21,046/- to respondent No.4 on 29th June, 2009.

15. Respondent No.4 is directed to refund the award amount of Rs.21,046/- to the appellant along with interest at the rate of 8% per annum from 29th June, 2009 up to the date of payment.

16. The statutory amount of Rs.25,000/- be refunded to the appellant by the Registry within a period of two weeks.

17. All pending applications stand disposed of.

J.R. MIDHA, J

DECEMBER 02, 2009
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