

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
	<u>09.11.2023</u>		AO No. 120 of 2021 <u>Hon'ble Sharad Kumar Sharma, J.</u> Mr. Gulshan Pande, Advocate, holding brief of Mr. Ganesh Kandpal, Advocate, for the appellant. Mr. Deepak Rawat, Advocate, for respondent No. 1. Mr. Rahul Adhikari, Advocate, for respondent No. 2. Mr. Vinod Chandra, Advocate, for respondent No. 3. Though, the matter is listed on various pending applications, but, in order to override the embargo of Order 41 Rule 11, learned counsel for the parties have agreed that the matter may be decided finally. The present appellant is the owner of the vehicle, which was said to be involved in the accident bearing Truck Registration No. UK-04CA0215. It chanced so that on 17.12.2015 at about 8.30 a.m., Harish Chand, who was the cleaner engaged in the vehicle, which later on had met with an accident, had met with the sad demise and consequently, the entire liability of remittance of the compensation has been shifted upon the owner of the vehicle, because, at the relevant point of time, the driver i.e. respondent No. 3 herein was found to be not having a valid driving license as no driving license was produced at that point of time to drive a transport vehicle.

		Ultimately, after appreciation of the evidence, the learned Motor Accidents Claims Tribunal, by the impugned award dated 20.12.2016 had partly allowed the same, whereby the Insurance Company was directed to pay the compensation of Rs. 7,25,000/- to the claimants along with the interest @ 9 per cent which was payable on it with the recoverable rights given to the Insurance Company to recover the same with interest from respondent No. 1 Shahid Hussain. The only reason for shifting the liability and granting the recoverable rights to the owner of the vehicle i.e. the appellant herein was because of the fact, that the driver, who was engaged in plying the vehicle was not having a valid driving license. During the pendency of the Appeal from Order, an Application was preferred under Order 41 Rule 27 of C.P.C., has been filed, wherein, in the application thus filed, the appellant had annexed the driving license of respondent No. 3. When the said application was taken into consideration, the learned coordinate Bench of this Court had directed, that the additional evidence as placed on record by IA/4/2022 that would be considered at the stage of final hearing. Further, when the matter was subsequently taken up, before another coordinate Bench of this Court, the Insurance Company was directed to verify the fact about the additional documents placed on record by the appellant i.e. driving licence of respondent No. 3. Learned counsel for respondent Mr. Deepak Rawat has placed before this Court the
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		DL verification report dated 10.10.2023, as submitted by Mr. Nirmal Melkani, the Investigator, who has addressed the report to the Senior Divisional Manager, National Insurance Company Limited and wherein upon the investigation being conducted, it was found, that on the date of accident, the respondent No. 3 was already having a valid driving license and as it has been placed on record, by way of an application under Order 41 Rule 27. In that eventuality, it has been argued by the learned counsel for the appellant, that when the driving license of respondent No. 3 was ultimately found to be valid even by the Investigator of the Insurance Company i.e. respondent No. 2 herein, the recoverable rights of the compensation as awarded by the learned Motor Accidents Claims Tribunal ought not to have been fastened and made effective upon the present appellant, because since the vehicle was validly ensured at the relevant point of time, and the driver was having valid license, the recoverable rights should not be vested upon the present appellant and the entire recovery of the amount, it ought to have been made liable to be paid by the Insurance Company. Since, the factum of the respondent No. 3, having a valid driving license and the same was valid on the date of the accident i.e. 07.12.2015 is admitted now by all the parites, there was no necessity to grant recoverable rights to the Insurance Company as against the appellant. In view of the aforesaid, the part of the impugned award dated 20.12.2016, as rendered in MACP Case No. 13 of 2016, Smt.
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			Asha Devi and others Vs. Shahid Hussain and others, so far it relates to granting the recoverable rights to the Insurance Company of recovering the awarded amount as against the present appellant, would hereby stand quashed without affecting the award as granted to the claimants, which would now be fastened upon and made recoverable from the Insurance Company, as directed by the impugned award. (Sharad Kumar Sharma, J.) 09.11.2023 Mahinder/
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