

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1404 of 1993
Date of decision: 07.01.2015

The New India Assurance Company Ltd.Appellant

versus

Haryana Roadways and others Respondents

FAO No.1405 of 1993
Date of decision: 07.01.2015

The New India Assurance Company Ltd.Appellant

versus

Haryana Roadways and others Respondents

FAO No.1406 of 1993
Date of decision: 07.01.2015

The New India Assurance Company Ltd.Appellant

versus

Haryana Roadways and others Respondents

FAO No.1416 of 1993
Date of decision: 07.01.2015

The New India Assurance Company Ltd.Appellant

versus

Haryana Roadways and others Respondents\

FAO No.1469 of 1993
Date of decision: 07.01.2015

The New India Assurance Company Ltd.Appellant

versus

Haryana Roadways and others Respondents

FAO No.1675 of 1993
Date of decision: 07.01.2015

The New India Assurance Company Ltd.Appellant

versus

Naraini Devi and others Respondents

Present: Mr.Neeraj Khann, Advocate for the appellant.

Mr. H. S. Sran, Addl. AG, Haryana
for respondents No.1 and 2 in
FAO Nos.1404, 1405, 1406, 1416 & 1469 of 1993 and
respondents No.4 and 5 in FAO No.1675 of 1993.

Mr. Vinod Chaudhri, Advocate for
the Oriental Insurance Company Ltd.

S.S. SARON, J.

This order will dispose of FAO Nos.1404, 1405, 1406, 1416, 1469 and 1675 of 1993. The appeals have been filed by the New India Assurance Company Ltd. against the judgment and award dated 16.11.1991 passed by the learned Motor Accident Claims Tribunal, Bhiwani. In terms of the impugned award that has been passed, the claimants have been held entitled to payment of compensation and the New India Assurance Company Limited (appellant); besides, driver of the offending bus namely Risal Singh

(respondent), State of Haryana and the appellant have been held jointly and severally liable to make the payment.

Mr. Neeraj Khanna, Advocate appearing for the appellant-New India Assurance Company Limited has submitted that the matter is not res integra and is covered by the order dated 16.12.2008 passed in FAO No.1714 of 1993 titled 'The New India Assurance Company Limited v. Haryana Roadways, Dadri Depot & others' wherein, it was held that the driver of the offending bus was not holding a valid driving licence nor was he appointed or authorized to drive the bus. Besides, it was held that the insurance company i.e. the appellant was to pay the compensation and it shall be entitled to recover the same from the owner of the bus i.e. the State of Haryana. However, the amount of compensation involved was different in each case.

There is no challenge to the amount of compensation that has been awarded. In other words, the New India Assurance Company Limited (appellant) does not dispute the amount of compensation that is payable. The question regarding the liability to pay the same as the driving licence of the driver Risal Singh (respondent), was not valid has already been decided in FAO NO.1714 of 1993 aforesaid. The learned Single Judge considered this matter and held that it was proved on record that respondent-Risal Singh did not have a valid licence to drive heavy passenger vehicle nor was he appointed as a driver or authorised to drive the vehicle. The act of the accident that had occurred, it was held had to be directly attributed to his conduct. The insurance company i.e. the appellant was absolved of its liability to indemnify the State as

there had been breach of the terms of the policy. The appellant was, however, ordered to pay the amount to the claimants and then recover the amount from the State/owner.

Learned counsel appearing for the State of Haryana has submitted that in fact Risal Singh (respondent) had a valid driving licence. However, in view of the categorical findings of a coordinate Bench of this Court and the conclusions reached at vide its detailed order dated 16.12.2008, there is no reason to hold that the driving licence of Risal Singh-respondent was valid.

In the circumstances, the appeals are disposed of in the same terms as the order dated 16.12.2008 passed in the case, 'The New India Assurance Company Limited v. Haryana Roadways, Dadri Depot & others' FAO No.1714 of 1993.

(S.S. SARON)
JUDGE

07.01.2015
A.Kaundal