

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

FAO No.758 of 1992 (O&M)

Date of decision: 08.04.2015

National Insurance Company Limited Rohtak

..... Appellant

versus

Smt.Raj Kali & others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Aseem Aggarwal, Advocate for the appellant
Mr.Akashdeep Singh, Advocate for respondent No.6

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

The Insurance Company has filed this appeal against the order dated 11.3.1992, passed by the Commissioner under the Workmen's Compensation Act Rohtak, vide which a compensation of Rs.1,29,625.32 was allowed to the applicants, to be paid within 30 days, failing which, same was to be paid with compound interest @ 15% per annum.

Facts of the case are that late Sukhbir Singh son of Sh.Lateer Singh was employed with respondent No.6 (respondent No.1 in the claim application) on tractor bearing registration No.HYR 3451 on the monthly salary of Rs.900/-. On the night intervening 25/26.6.1989, Sukhbir Singh, while driving the said tractor, met with an accident while on way from Rohtak to Kalanaur. An FIR in this

regard was recorded.

Respondent No.6 (respondent No.1 in the claim application) admitted that Sukhbir Singh was employed by him. He, however, stated that the tractor was insured with respondent No.2 (appellant herein). The Commissioner came to the conclusion that the deceased was holding a valid learner driving licence permit upto 16.8.1984 and then a regular driving licence for LTV valid upto 1.5.1988, which was not renewed thereafter. However, the Commissioner took the view that there is nothing on record that the deceased was ever disqualified or ceased to be a valid driver by any authority. Therefore, the Insurance Company was held liable. The Insurance Company was ordered to pay Rs.78,087.60 as compensation, Rs.12,493.92 as interest and Rs.39,043.80 as penalty, totaling Rs.1,29,625.32.

I have heard learned counsel for the appellant and respondent No.6 and have also carefully gone through the file.

Perusal of lower Court's file as well as findings shows that the driving licence of the deceased was valid upto 1.5.1988. The accident occurred on the night intervening 25/26.6.1989. It goes to show that on the date of the accident, the deceased was not holding valid driving licence. As per Insurance Policy (Ex.RW1/1), liability of the insurance company arose only when the driver is holding valid driving licence. Since there was no valid driving licence of the deceased on the date of the accident, therefore, the Insurance company is not liable to pay the compensation.

Learned counsel for the appellant has informed that

before filing the appeal, the entire amount of compensation was deposited and disbursed to the applicants. Therefore, it has been prayed that the Insurance Company be allowed to recover the same from the owner/ respondent No.6. Further argument has been raised that the penalty of Rs.39,043.80 imposed under Section 4-A(3B) of Workmen's Compensation Act, 1923 should not have been imposed.

I am of the view that since the employer did not pay the compensation within the time, therefore, penalty was rightly imposed. Even though, the Insurance Company has paid the same, it can recover the same from the employer.

It being so, the present appeal is allowed. The Insurance Company, which has paid the compensation and the penalty to the applicants, is allowed to recover the same from the employer – respondent No.6.

08.04.2015
gk

(Kuldip Singh)
Judge