

FAO No.1498 of 1994

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No.1498 of 1994 (O&M)
Date of Decision: February 09, 2015

National Insurance Co. Ltd ...Appellant

Versus

Smt Shakuntla Devi and others ...Respondents

FAO No.1499 of 1994

National Insurance Co. Ltd ...Appellant

Versus

Sheela Rani and others ...Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Bhupesh Dogra, Advocate
for the appellant-Insurance Company.

FATEH DEEP SINGH, J.

On 13.5.1992 around 8.30 p.m. near Sagar Dhaba, G.T. Road, Panipat an accident took place between a motorcycle No. HR-06-A/1256 and bus No.HR-07-9084 owned by Haryana Roadways being driven rashly and negligently by its driver Bhagat Ram leading to accidental injuries and consequent death of both the motorcyclists namely Ram Mehar, who was driving the motorcycle and Jagdish the pillion rider. Two claim petitions were preferred. One bearing MACT Case No.117 of 1992

titled as Sheela Rani and others vs. Bhagat Ram and others seeking compensation for the death of Ram Mehar, whereas, the another one bearing MACT Case No.118 of 1992 titled as Shakuntala Devi and others vs. Bhagat Ram and others seeking compensation for the death of Jagdish and both the claim petitions stood disposed off through common award dated 9.3.1994 by the learned Motor Accident Claims Tribunal, Panipat. It is against these findings the two appeals by the Insurer have been preferred and since there is consanguinity of facts and law are being disposed off together.

Heard learned counsel for the appellant. From the arguments advanced on behalf of the appellant-Insurer it permeates that the sole ground of the appellant-Insurer is to the legality and validity of the driving licence of the driver. The findings of the learned Tribunal qua the mode of the the accident decided by way of issue No.1 which has gone in favour of the claimants have never been put to question and thus has attained finality. Neither the findings on issue No.2 as to the quantum of compensation is a disputed proposition. The driving licence of driver of the offending bus Bhagat Ram has been brought on the records by way of deposition of PW1 Sunil Kumar, Ahlmad, who has brought the criminal file pertaining to this accident and which witness though had apparently nothing to do with the issuance of this driving licence and was only supposed to prove the driving licence on the records but has ventured into stating that the driving licence has been issued by Delhi Licencing authority and was valid upto 12.3.1993 when the accident apparently has taken place on 13.5.1992. Copy of the driving licence Ex.R3 has never been rebutted by the Insurer and rather it was for the Insurer to

FAO No.1498 of 1994

have led evidence to establish that the driving licence of the driver of the offending vehicle was not legal and valid as well as effective at the time of the accident and which they failed to prove. Moreover, no issue has been framed on the same before the learned Tribunal. Though, a feeble attempt is being made on behalf of the appellant-Insurer to harbour around the point that the driving licence Ex.R3 pertains to heavy motor vehicle when it ought to be in respect of heavy transport vehicle as the driver was driving a bus which is a public service vehicle. However, in the absence of any evidence from the Licencing Authority in this regard as onus lay heavily on the appellant-Insurer to prove the same they cannot draw any benefit out of it nor has the audacity to take objection to this effect or insisted on framing of an issue at the time of trial of the claim petition. Thus, the conclusions drawn by the learned Tribunal cannot be disturbed. Finding no merit in the instant appeals preferred by the appellants-Insurer the same stand dismissed.

(FATEH DEEP SINGH)
JUDGE

February 09, 2015

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