

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

F.A.O. No. 1763 of 1995

Date of decision : January 13, 2015

The New India Assurance Company Limited

....Appellant

versus

Sunita alias Neera Khanna and others

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. L.M.Suri, Senior Advocate with
Mr. Neeraj Khanna, Advocate, for the appellant

Mr. Varun Sharma, Advocate, for respondent no. 7

Fateh Deep Singh, J. (Oral)

Challenge by the appellant-insurer is to an award of the Motor Accident Claims Tribunal, Amritsar dated 1.4.1995 whereby the learned Tribunal awarded compensation to the tune of Rs 1,92,000/- along with interest @ 12% per annum.

The sole ground canvassed by counsel for the appellant in his arguments is over the fact that since the driver of the offending vehicle truck No. PB-02-B-9990 was not holding legal and valid driving licence, the

appellant-insurer cannot be burdened with the compensation and which arguments are sought to be assailed by Mr. Varun Sharma, Advocate, for respondent no. 7.

Appreciating the rival submissions on the pleadings the learned Tribunal has framed a specific issue no. 3 over the legality and validity of the driving licence. As has been urged on behalf of the appellant, the driving licence of driver of the offending vehicle namely Baldev Singh as per the DTO report Ex. D1 was fake and had been renewed subsequently does not clothe it with legality and validity. The learned Tribunal though has accepted this fact and has sought to ultimately burden the compensation upon the appellant-insurer which is not correct appreciation of the law as the case in question is squarely covered by judgment laid down in *New India Assurance Company, Shimla versus Kamla and others, (2001) 4 SCC 342* and which emphatically lays down that what is initially is a fake cannot become legal and enforceable subsequently and thus, the learned Tribunal has fallen into an error on this aspect and counsel for the respondent no. 7 could not show cause how the driver and the owner can get out of this obligation in the light of this settled position of law. The appellant insurer though would initially pay the compensation amount. However, they are bestowed with recovery rights and shall be entitled to recover the amount of compensation from the driver and the owner jointly

and severally.

With the aforesaid modification, the impugned award is modified and the appeal is allowed in those terms. No costs.

January 13, 2015
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(Fateh Deep Singh)
Judge