

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 2259 of 1995 (O/M)
Date of decision : 13.3.2015

M/s National Insurance Company Ltd. Appellant

Versus

Shyam Lal and others Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. R.M. Suri, Advocate, for the appellant.
Mr. Ashok Kumar Jindal, Advocate, for,
Mr. Sanjay Mittal, Advocate,
for respondents No. 4 and 9.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
 2. To be referred to the Reporter or not.
 3. Whether the judgment should be reported in the digest ?
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KULDIP SINGH, J. (ORAL)

Learned counsel for the appellant has placed photocopy of the available file in this case as the original file was burnt in the fire that broke out in the record room of this Court in the year 2011. Learned counsel has produced photocopies of statements of Shyam Lal (claimant/eye-witness) and Parmod Kumar and Dharambir as RW1 and RW2. The same are taken on record.

This is appeal of the insurance company on the short ground that the licence of the driver was found fake and that it was not renewed. Therefore, it was not a valid driving licence and that the insurance company is to get recovery rights from the insured.

A perusal of the facts shows that in this case, Smt. Kamlesh was run over by the offending Ford tractor being driven by

respondent No. 4-Dharambir. Before the Motor Accident Claims Tribunal, Rewari (in short 'the Tribunal'), a driving licence (Ex.RW2/A) was produced by the driver. The said licence shows that it was purportedly issued by the Licensing Authority, Shimla on 18.8.1987. The licence further shows that it was stated to have been got renewed later on from Gurgaon in the year 1990 and was valid upto 17.8.1993. The statement of Pawan Kumar, Senior Clerk, Regional Licensing Authority, Shimla, shows that he brought the summoned record regarding licence in question of respondent No. 4-Dharambir and categorically stated that the said licence was not issued by his office. Therefore, the subsequent renewal of a fake licence will not make it genuine. In New India Assurance Co. Versus Kamla, 2001 (3) RCR (Civil) 716, it was held that when a licence is fake, the renewal will not make it genuine. This view has been consistently followed by the Courts. It being so, it is held that the licence of Dharambir (respondent No. 4) was fake. Consequently, the present appeal is allowed and the appellant-Insurance Company is allowed recovery rights against the insured i.e. the owner of the Ford tractor bearing registration No. HR-36/5951 Dharambir.

Accordingly, the present appeal is allowed.

(KULDIP SINGH)
JUDGE

13.3.2015
sjks