IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.2709 of 1996
Date of Decision: January 15, 2015

National Insurance Company Ltd. ...Appellant

Versus

Sharanjit Rani and others ...Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. J.S. Chatrath, Advocate
for Mr. Ashwani Talwar, Advocate
for the appellant-Insurance Company.

Mr. Amninder Preet Singh, Advocate
for the respondents.

FATEH DEEP SINGH, J.

The appellant-Insurer through this invocation has assailed the findings of the learned Motor Accident Claims Tribunal, Amritsar by way of award dated 8.5.1996 holding the appellant-Insurer, owner and the driver of the offending vehicle jointly and severally liable to pay the compensation amount with a rider that first liability will be of the Insurance Company.

After hearing learned counsel for the parties. The sole point that has been agitated by the Insurer-appellant is their liability so concluded by the learned Tribunal.

Though, not much of the record is available after the same stood destroyed. Be so as it is RW1 Jasdev Singh, Clerk, DTO, Amritsar which has been examined has testified that the driving licence of driver-Sukhwinder Singh, which was entered at serial No.20618 was renewed from 9.5.1991 to 3.5.2007 from which the learned Tribunal has drawn conclusions that it was a legal and valid driving licence. However, the very cross-examination which has been reproduced leaves no scope to doubt that as per the examination-in-chief of RW1 Jasdev Singh, as per the register pertaining to licence No.3782 the same does not relates to the office of DTO, Amritsar and no such driving licence originally was issued from their office. It is further asserted by this witness that the licence is fake one and is not entered in any register of their office. This witness has not been cross-examined by any of the contesting sides to this effect and which certainly as per the testimony of RW2 Swarn Singh, Clerk, DTO, Amritsar shows that the subsequent licence relied upon by the driver is renewed and that its very origin is fake one and that his cross-examination leaves no scope to doubt that initial onus which lay upon the insurer shifts upon the driver to bring forth his case of legality and validity of the driving licence so claimed by him and who inspite of contesting the litigation has never bothered to step into the witness box to state his side of the story. Thus, from it all, one can clearly conclude that original driving licence in the name of Sukhwinder Singh was fake and that subsequently renewal even if it is legal and valid does not clothes the fakeness with any legality and the same was the proposition laid down in ***New India Assurance Company Limited vs. Kamla and others 2001(1) PLR 830 (SC)*** and in another subsequent view in ***M/s United India Insurance Co. Ltd. vs. Davinder Singh 2007(4) RCR***

(Civil) 790 relied upon by the counsel for the appellant and these arguments could not be controverted on behalf of the respondents. Thus, in the totality of the same, the learned Tribunal has lost sight of this vital evidence. Therefore, it is held that though, the Insurer is liable to pay the compensation at the first instance, however, it reserves its right to recover the same from the driver and owner of the vehicle jointly and severally.

With these observations the instant appeal is allowed in those terms.

(FATEH DEEP SINGH)
JUDGE

January 15, 2015
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