IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1) FAO No.1945 of 2000 (O&M)
Date of Decision:14.10.2015

New India Assurance Company Ltd.
….Appellant

Versus

Ravinder Dutt Bhanot and others
….Respondents

(2) FAO No.1946 of 2000 (O&M)

New India Assurance Company Ltd.
….Appellant

Versus

Ravinder Dutt Bhanot and others
….Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Argued by: Mr. Deepak Suri, Advocate for the appellant in both cases.

Mr. Parteek Mahajan, Advocate for respondent No.4.

NAVITA SINGH, J.

1. The motor vehicle accident took place on 22.6.1998 regarding which two separate petitions were filed by the claimants i.e. respondent No.1 & 2 herein, one for grant of compensation on account of the death of Indera Kumari, mother of the claimants and the other one for the death of their father. The Motor Accidents Claims Tribunal, Gurdaspur (Tribunal for short), passed separate awards in the petitions on the same day i.e. 21.1.2000 granting compensation to the claimants and fastening the liability on the Insurance Company. The Insurance Company came up in appeal in both the cases on the ground of quantum and liability.

2. At the time of arguments, however, the point only regarding liability was urged seeking recovery right from the insured. The aspect of quantum was not touched.

3. Counsel for the appellants argued that though it had come in evidence from the statement of Harwinder Kaur, Clerk in the office of D.T.O., Amritsar that no record pertaining to the driving licence in the name of driver Nikka Ram was available and that the record had been destroyed in a bomb blast, the Tribunal went on to conclude that it could not be said that the driver was not holding the licence and consequently saddled the Insurance Company with liability to pay. It was argued that the witness had said that an application was moved by the surveyor of the appellant-Company regarding verification of the licence bearing No.2564 in the name of respondent No.2 but as per the noting, licence was not issued from their office. Counsel for the appellants went on to say that since whatever part of the record or copies of documents which were available, showed that no such licence was issued from the office of D.T.O., Amritsar, it should have been held that the driver did not possess a driving licence at the relevant time. Counsel for the other side, however, contended that there was nothing to show that the licence was not valid and, therefore, the vehicle being validly insured, the Tribunal rightly made the appellant pay. This argument is convincing for the reasons given below.

4. It is not understandable as to how Harwinder Kaur could state that as per the noting, licence No.2564 was not issued in the name of respondent No.2 from this office. She said that the record has been completely destroyed in a bomb blast. Therefore, nothing could be available with her to say such a thing. Furthermore, if the record was destroyed and none of the parties was in a position to bring anything on record either regarding the validity or invalidity of the licence or for that matter regarding the fact whether licence was or was not issued, it was appropriately held in the circumstances by the Tribunal that the vehicle being validly insured and there being no evidence regarding violation of

any of the terms and conditions of the insurance policy, the appellant Company would bear the responsibility to indemnify the claimants.

5. Finding no fault with the awards, both the appeals are dismissed.

(NAVITA SINGH)
JUDGE

14.10.2015
Ishwar

Whether to be referred to reporter: Yes