

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

FAO No. 867 of 1999(O&M)

Date of Decision: September 16 , 2015.

National Insurance Company Ltd.

..... APPELLANT (s)

Versus

Balwinder Singh and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Neeraj Khanna, Advocate and
Mr. Ravinder Arora, Advocate
for the applicant/appellant.

Mr. C.L.Sharma, Advocate
for respondent No.8.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

Learned counsel for the applicant/appellant submits that in view of the fact that the vehicle was sold to respondent No.8, who is duly represented, prior to the accident in question, service upon respondent No.7 be dispensed with.

Ordered accordingly.

CM No.28120-CII of 2014

Keeping in view the averments made in the application, duly supported by an affidavit, order dated 11.04.2014 is recalled. Appeal is

restored to its original number.

Application is accordingly allowed.

FAO No.867 of 1999

With the consent of learned counsel for the parties, main appeal is taken up for hearing.

Sole ground of challenge in this appeal preferred by the appellant – Insurance Company is that the Tribunal has erred in holding that the driver of the offending vehicle was holding a valid driving licence at the time of the accident.

Facts as revealed in the claim petition are that, Baldev Singh (deceased) aged about 35 years, crossed the road after making purchases from a shop to proceed towards his village Dakaula on 22.03.1992 at about 9.30 p.m. In the meantime, a four wheeler Swaraj Mazda bearing No. HNX-925 driven in a rash and negligent manner by respondent No.6 – Om Parkash came from Saha side while being driven on the wrong side of the road and hit Baldev Singh. Baldev Singh sustained injuries and succumbed to them at PGI Chandigarh. FIR No.56, Ex.P2 was registered under Sections 279/304A IPC against the driver of the offending vehicle.

Claim petition under Section 166 of the Motor Vehicles Act, 1988 was preferred by the legal representatives of deceased – Baldev Singh i.e., the widow, minor children and mother of the deceased. Claim was resisted by the respondents and the following issues were framed by the learned Tribunal:-

- “1. Whether the accident dated 22.03.1992 resulting into the death of Baldev Singh took place due to rash and negligent driving of Swaraj Mazada No.HNX-925? OPP

2. Whether the claimants are entitled to any compensation on account of death of Baldev Singh and if so, to what amount and from whom? OPP
3. Whether the offending vehicle was being driven without a valid driving licence? OPR-4
4. Whether the claim petition is not maintainable? OPR-4
5. Relief.”

Learned Tribunal on appreciation of the evidence on record concluded that Baldev Singh sustained injuries leading to his death in the accident caused due to the rash and negligent driving of four wheeler Swaraj Mazda No. HNX-925 by respondent No.6 – Om Parkash. A total sum of ₹2,70,000/- as compensation was awarded to the claimants on account of the death of Baldev Singh in the said accident.

Specific finding has been returned by the Tribunal that the licence produced on the file could not be proved to be fake or invalid by the Insurance Company. It is only this finding which is subject matter of challenge in this appeal.

Learned counsel for the appellant relies on the report, Ex.R5, of Anuj Aggarwal, Surveyor of the company to submit that as per report of the Licensing Authority at Dehradun, licence in question was not issued by that office. Subsequent renewals of this licence cannot confer validity upon the driving licence. Therefore, present appeal should be allowed.

Learned counsel for respondent No.8, on the other hand while refuting the said contention, submits that report of a surveyor cannot be relied upon to prove a driving licence is not valid. Anuj Aggarwal, Surveyor of the company was not even examined therefore, there is no ground to interfere in the well-reasoned finding returned by the learned Tribunal.

I have heard learned counsel for the parties and gone through the file.

It is not disputed that to prove the licence to be invalid, sole reliance is placed on the report, Ex.R5 of Anuj Aggarwal, purported Surveyor of appellant-Insurance Company. It is further not in dispute that said surveyor has not even stepped into the witness box to prove the said report. There is nothing to indicate that there was indeed any report of the Licensing Authority, Dehradun to show that the licence, in question, was not genuine. None from the Licensing Authority, Dehradun has been examined to prove this aspect. There is no other evidence to indicate this Driving License to be fake.

Learned counsel is unable to deny the dictum of the Hon'ble Supreme Court in Surjan Ram v. Anchal Singh, 1997(3) RCR(Civil) 670 wherein it has been held that a mere report of the surveyor in the absence of any other evidence is not sufficient to prove that the driving licence, in question, was not genuine.

Learned counsel for the appellant is unable to point out any illegality, infirmity or perversity in the said finding returned by learned Motor Accident Claims Tribunal, Ambala vide award dated 02.12.1996, which would warrant interference by this Court. Insurance Company has indeed failed to discharge the burden cast upon it for proving the licence in question to be invalid or fake.

Consequently, this appeal is dismissed.

(LISA GILL)
JUDGE

September 15, 2015.
'om'