

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 5457 of 2002 (O&M)
Date of decision: 30.6.2015

State of Haryana and another

.. Appellants

v.

Dariya Singh and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Anil Kumar Yadav, Addl. Advocate General, Haryana.
Mr. Suvir Dewan, Advocate for respondent No. 4.

...

Rajesh Bindal J.

The State is in appeal against the award of Motor Accident Claims Tribunal, Jind (for short, 'the Tribunal'), whereby on account of accident, compensation of ₹ 2,93,800/- was awarded to the claimants.

The facts, as are available on record, are that on 16.11.2000, Gurdev (deceased) was travelling in Haryana Roadways bus No. HR-31A-0401. As a result of the accident, he suffered injuries, to which he succumbed in the hospital. The bus was insured with National Insurance Company. The claim petition was filed under Section 163-A of the Motor Vehicles Act, 1988. On the basis of the material produced on record, the Tribunal awarded the compensation of ₹ 2,93,800/- to the legal heirs of the deceased. As the driver was not found to be having valid driving licence, the amount of compensation was to be paid by the State and the driver. The

Insurance Company was absolved.

Learned counsel for the State submitted that the deceased was travelling on the roof of the bus, which struck against the branches of the trees on the side of the road, as the driver had to take the bus on the side to avoid accident with a tractor-trolley coming from the opposite side. The bus being insured with National Insurance Company, the liability was to be fastened on it.

On the other hand, learned counsel for the Insurance Company submitted that once the driver of the bus was not carrying valid driving licence, there being violation of the terms of the policy, the Insurance Company was not liable. He further submitted that in appeal filed by the claimants seeking enhancement of compensation, the matter was disposed of by Permanent Lok Adalat in this court granting enhancement with the consent of the parties vide order dated 16.12.2011 passed in FAO No. 4827 of 2002—Dariya Singh and others v. Maje Singh and others.

After hearing learned counsel for the parties, I do not find any merit in the present appeal. Once the Tribunal has found that driver of the vehicle was not having a valid driving licence, this being in violation of the terms of the policy, the Insurance Company could not be held liable to pay the compensation to the claimants or the insured. The State cannot be absolved of its responsibility to verify genuineness of the driving licence possessed by a driver engaged. Nothing has been pointed out to show that the driver was possessing a valid driving licence. In the absence thereof, the finding of the Tribunal holding the appellants liable to pay the compensation and absolving the Insurance Company cannot be said to be erroneous, hence, the plea to that extent is rejected.

As far as the plea raised against the claimants regarding compensation is concerned, suffice to notice that in FAO No. 4827 of 2002 filed by the claimants, the matter was disposed of by Permanent Lok Adalat in this court in the presence of counsel for the State, where the compensation was enhanced from ₹ 2,93,800/- to ₹ 3,08,800/- with the consent of the parties, meaning thereby, the liability to pay compensation to the claimants was not disputed, hence, this plea cannot be permitted to be

raised in the present appeal.

For the reasons mentioned above, the present appeal is dismissed.

(Rajesh Bindal)
Judge

30.6.2015
mk