

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.5144 of 2004
DATE OF DECISION:21.12.2015

Mahi Ram and others

...Appellants

versus

Jailla Devi and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr.KPS Virk, Advocates for
Mr.K.S.Dhaliwal, Advocate for the appellants.
Mr.Karminder Singh, Advocate for respondent
No.2.

RAMENDRA JAIN, J.

The appellants are drivers and owners of the offending vehicle. A challenge is made to the award dated 10.2.2004 passed by the Motor Accident Claims Tribunal, Sangrur (for short, 'the Tribunal').

Briefly stated the facts as follows:-

Jailla Devi claimed in the claim petition that on the fateful day i.e. 11.11.2001, she went to village Mehlan Chowk to meet her brother Mohinder Ram. When she along with Chhinder Kaur (sister-in-law) was coming back on foot after collecting the fodder for animals on their heads and reached near Gurdwara Mehlan Chowk, the offending bus bearing registration No.PB-11Q-6742, driven by

respondent No.1 (Mahi Ram) in a rash and negligent manner without blowing any horn, struck against her from the back side. Resultantly, she sustained multiple injuries. The injured was given medical treatment.

On appraisal of evidence, the Tribunal came to the conclusion that driver (Mahi Ram) was not holding the valid or effective driving licence. It further came to the conclusion that since the offending vehicle was insured, the driver, owners and insurance company were jointly and severally liable to pay the amount of ₹40,000/- as compensation to claimant Jailla Devi with interest @ 9% per annum from the date of filing the claim petition. However, liberty to recover the aforesaid amount was given to the Insurance Company from the driver and owners of the offending vehicle.

The solitary argument of learned counsel for the appellants is that the learned Tribunal has erred in not accepting the evidence of the driver that he was carrying a valid and effective driving licence. There is no valid and lawful reasoning in relying upon the certified copy of the report of the office of Regional Transport, Cuttack mentioning that no driving licence No.1834/97 was ever issued by it in the name of Mahi Ram son of Saraina Ram (appellant), inasmuch as, no witness was examined from the transport authority to prove the aforesaid report. Thus, the reliance placed by the Tribunal upon the aforesaid report is legally incorrect and, therefore, the recovery right given to the insurance company can be curtailed in the light of the aforesaid evidence.

The argument addressed for the insurance company is that the learned Tribunal was legally justified in giving the recovery right to it, inasmuch as, there is cogent and convincing evidence showing that the driver of the offending vehicle was not carrying any valid and effective driving licence.

Having given my thoughtful consideration to the arguments of learned counsel for the parties, I find no substance in the arguments of learned counsel for the appellants being meritless.

Here only dispute is as to who was liable to pay the compensation amount to the injured.

The award of the Tribunal shows that the amount of compensation was to be paid to the injured by the driver, owners and Insurance Company, jointly and severally. However, the recovery right was given to the Insurance Company to recover the same from driver and owner which is bone of dispute in the present appeal.

The certified copy of the report issued by the Office of Regional Transport, Cuttack was tendered in evidence showing that no driving licence No.1834/97 was issued by it. However, no contrary evidence was produced by the driver or the owners of the offending vehicle showing that the aforesaid report was not genuine. Mere non-examination of witness to prove the aforesaid report does not mean that reliance cannot be placed upon it. In the present case, the appellants did not produce any contrary or cogent evidence in rebuttal to show

that the aforesaid report was false. In the absence of such contrary or cogent evidence, it cannot be said that the findings given by the Tribunal are erroneous and require interference by this Court.

In view of the aforesaid discussion, I find no illegality or perversity in the award dated 10.2.2004 passed by the Tribunal.

Dismissed.

December 21 ,2015
KD

(Ramendra Jain)
Judge