IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.434 of 2006 (O&M)
Date of Decision:20.01.2015

Subash Kumar

….Appellant

Versus

Jagjit Kaur and others

….Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present: Mr. Rajinder Sharma, Advocate for the appellant.

Mr. R.N. Singal, Advocate for respondent No.5-
New India Assurance Company Ltd.

NAVITA SINGH, J.

1. The Motor Accident Claims Tribunal, Amritsar (Tribunal for short) awarded compensation to the claimants with a direction that the Insurance Company shall indemnify them but shall have a right to make recovery from the appellant. The appellant filed appeal against that part of the award.

2. Counsel for the appellant argued that the Tribunal wrongly came to the conclusion that the driving licence of the driver i.e. respondent No.6 herein was not valid as it was not renewed when the accident took place, having expired prior to that. He referred to evidence where Clerk from the office of DTO, Amritsar produced record regarding licence No.21834. She stated that no duplicate of that licence was issued. The other witness from the same office produced the record regarding renewal of driving licence. The renewal made at Sr. No.2449 related to the driving licence in the name of Amarjit Singh son of Sohan Singh and not to respondent No.6. No other driving licence was renewed against that entry. It is, therefore, clear that the driving licence of respondent No.6 was not renewed.

3. The Tribunal further held that evidence was produced by the Insurance Company regarding the copy of licence supplied to them, which was purportedly issued on 21.12.1990 and renewed on 17.3.1999. However, that licence was issued in the name of Pargat Singh and not in the name of respondent No.6. Original licence never saw the light of the day as it was not produced by respondent No.6. As per the evidence produced by him, it was valid upto 18.12.2003. This aspect was stated by the other Clerk who appeared from the office of DTO, Amritsar. It may be mentioned at the cost of repetition that original driving licence was not produced by respondent No.6 for reasons best known to him. The cross examination of the witness produced by the driver showed that the page from where he made the deposition was pasted in the register and was not one of the original leaves. He admitted that the same had been pasted and was not a part of the register. He also could not deny the fact that the same was pasted subsequently to fabricate the entry. The serial numbers entered in the register prior to the entry in question showed that the entry was a forged one. The Tribunal rightly came to the conclusion that adverse inference was to be drawn against the driver and owner for not producing the original driving licence and rather producing a register wherein the entry had been fabricated.

4. Counsel for the appellant relied on the reported case National Insurance Company Vs. Chand Kaur and others The Punjab Law Reporter Vol.CXL(2005-2) 39. The Division Bench of this Court had held that even if renewal was not made, the Insurance Company could not be absolved from the liability. However, the said view is not binding on this Court and even otherwise it was held by the Supreme Court in Malla Prakasarao Vs. Malla Janaki 2004-SCC-3-343 that if the driver of the vehicle did not have a driving licence when the accident took place, it would not be material whether be originally had a licence.

If the driving licence was not renewed within 30 days of the expiry date, it would mean that the driver did not possess a valid driving licence.

5. It is, therefore, clear that the Tribunal made no mistake in holding that respondent No.6 was not holding a valid driving licence at the relevant time and, thus, rightly gave the right to recover the amount from the appellant. Rather the Insurance Company even could have been totally exonerated.

6. The appeal is dismissed.

(NAVITA SINGH)
JUDGE

20.01.2015
Ishwar

Whether to be referred to reporter: Yes