

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 3217 of 2011 (O/M)
Date of decision : 12.5.2015

New India Assurance Company Ltd. Appellant

Versus

Kulwant Kaur and others Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Rajesh K. Sharma, Advocate, for the appellant.
Mr. G.S. Chahal, Advocate, for respondents No. 1 and 2.
None for respondent No. 3.

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

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KULDIP SINGH, J. (ORAL)

This appeal has been filed by the insurance company against the order 5.4.2010, passed by the Commissioner under the Workmen's Compensation Act, 1923 and Labour Cum-Conciliation Officer, Circle-3, Jalandhar (in short 'the Commissioner'), whereby the insurance company was directed to pay compensation to the applicants to the tune of Rs. 3,82,322/- alongwith interest @ 8% per annum from the date of death till the date of its realization.

In this case, on 18.8.2006, Amarjit Singh (deceased) was driving truck bearing registration No. PB-05-L-9581 when he was hit by another truck bearing registration No. PB-12-D-9783 near village Kang Sabu on Nakodar Jalandhar road. As a result of the said accident, Amarjit Singh died. The Commissioner awarded

compensation to the tune of Rs. 3,82,322/- alongwith funeral expenses i.e. Rs. 25,000/-. Respondent No. 2-insurance company was held liable to pay the amount of compensation to the applicants/claimants. Now, the insurance company has come up in appeal, claiming that the driving licence of the deceased Amarjit Singh was found to be fake. Therefore it has got recovery rights.

The learned counsel for the insurance company has made reference to the statement of clerk of DTO office, Ferozepur, who had brought the record of licence No. 11917 dated 1.2.2005 and stated that against Serial No. 11917, an entry appears in the name of Amarjit Singh son of Balwinder Singh, but no Government fee was deposited against that number and number 219642/2003/24.5.2005 has been mentioned as fake. It also does not appear in cash book and signatures of DTO are also fake. Entry number also appears to be fake. He further stated that Endst. No. 33/End/01/02 Fzr was not issued by their office because in the year 2001-02, no such number was in their record. It was stated that the driving licence No. 11917 RE (Ex.P4) is also fake. However, the Commissioner came to the conclusion that since name of Amarjit Singh finds mentioned in the record, therefore, the driving licence was valid.

I am of the view that since the witness had specifically stated that no Government fee was deposited and that the entry did not appear in the cash book and signatures of the DTO were

also fake, therefore, it appears that somebody committed mischief by making entry at the later stage. The endorsement number mentioned in the driving licence i.e. 33/End/01/02 Fzr was not issued by their office because in the year 2001-02, no such number was in their record. It follows that the driving licence (Ex.P4) produced during the evidence was fake. If the driving licence is found to be fake, the insurance company has got the recovery rights against the insured. Bhupinder Singh (owner/respondent No. 3), when appearing before the Commissioner had nowhere stated that he had verified the driving licence of the deceased or had taken the test of the deceased to ascertain that he is fit to drive the truck. It being so, since the driving licence of the driver is found to be fake, therefore, insurance company is first liable to pay the compensation of the awarded amount, but then it shall have the recovery rights against the owner of the truck (respondent No. 3).

This Court has been informed that the amount of compensation has already been deposited by the insurance company. Therefore, the same be released in favour of the applicants/claimants.

Appeal is allowed to the said extent.

(KULDIP SINGH)
JUDGE

12.5.2015
sjks