IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4519 of 2011 (O&M)
Date of decision: 30.07.2015

Kartar Singh

….Appellant

Versus

The New India Assurance Company Limited and others

….Respondents

CORAM: HON'BLE MR. JUSTICE K.C. PURI.

Present: Mr. Munish Gupta, Advocate
for the appellants.

Ms. Vandana Malhotra, Advocate
for respondent No.3.

K.C. PURI J. (Oral)

This is an appeal directed by Kartar Singh (owner of Tractor bearing registration No.PB-07-N-6830) against the award dated 08.10.2010, passed by Sh. Jaspal Singh Bhatia, Motor Accident Claims Tribunal, Hoshiarpur, vide which the claim petition was partly accepted.

The claimants were held entitled to Rs.75,164/- along with interest @ 7% per annum from the date of filing the claim petition till payment. However, it was further held that the driver of the offending vehicle was not holding a valid driving licence and the recovery rights were given to the insurance company.

The case of the claimants set-forth in the claim petition is that on 16.10.2006, the deceased along with Kulwinder Singh son of Ram Parkash, resident of village Pandori Atwal, were coming from village Baruhi after completing their job on their motorcycle bearing registration No.PB-21-B-7551 Mark TVS. When they reached on the turn towards village Koi in the area of village Baruhi at about 02:00 p.m. a tractor bearing registration number PB-07-N-6830 came from Manhota side i.e. opposite direction being driven by respondent No.1 in a rash and negligent manner, without blowing horn, at a very high speed and after coming on the wrong side of the road, struck against the motorcycle upon which the deceased was a pillion rider. Resultantly, deceased-Manmohan Lal, received multiple injuries on his person and succumbed to his injuries. The accident has taken place due to rash and negligent driving of respondent No.1.

Upon notice, respondents No.1 and 2 have denied the contents of the claim petition and have pleaded that no accident has taken place. It is further pleaded that a false case has been registered.

The insurance company i.e. respondent No.3 took the preliminary objections that the driver of the offending vehicle was not holding a valid driving licence and as such, the insurance company is not liable to pay the compensation.

On merit, other averments made in the claim petition were denied.

From the pleadings of the parites, following issues were framed:-

> ***1.*** *Whether Manmohan lal son of Piyare Lal died in a motor vehicle accident caused by Harvinder Singh, respondent No.1 while driving tractor No.PB-07-N-6830, in a rash and negligent manner? OPA.*
>
> ***2.*** *Whether the claimants are entitled to the compensation as prayed for? OPA.*
>
> ***3.*** *Whether the driver who was driving tractor No.PB-07-N-6830 was not holding a valid and effective driving licence at the time of alleged accident? OPR.*
>
> ***4.*** *Relief.*

The claimants, in order to prove their case examined AW-1-HC Daljit Singh, AW-2-Avtar Singh, Clerk, AW-3-Tripta Devi (claimant No.1) and AW-4-Kulwinder Singh.

In rebuttal, respondents have not led any evidence.

The Tribunal has returned the findings on Issue No.1 and 2 in favour of the claimants, whereas Issue No.3 was decided in favour of the insurance company and it is held that the driver of the offending vehicle was not holding a valid driving licence. The claim petition was partly accepted and a sum of Rs.12,75,864/- was allowed along with interest @ 7% per annum. However, since respondents No.1 was not holding a valid driving licence and as such, recovery rights have been given to the insurance company.

The owner of the offending vehicle has directed this appeal, challenging the Issue No.3 only.

The Tribunal by relying upon the testimony of RW-1-Amarjit Kaur, Clerk of District Transport Officer, Hoshiarpur, held that although there is a valid renewal, but the original licence was not issued by the Licensing Authority, Cuttack as per the report of Licensing Authority, Cuttack. So, as per the report of the Licensing Authority, Cuttack, the original licence was not issued by the said authority, therefore, the Issue No.3 was decided in favour of the insurance company and against the driver/owner.

Learned counsel for the appellant during the pendency of the case has submitted that the said report cannot be taken into account for proving the validity of driving licence of driver of the offending vehicle as the same has not been proved in accordance with law. So, this Court vide order dated 08.04.2015 call for the verification from the said Licensing Authority. The report from the Licensing Authority, Cuttack has been received that no such driving licence was issued in favour of the driver of the offending vehicle.

No doubt, the insurance company has not only to prove that the driving licence was fake, but also has to prove that the owner of the vehicle was negligent. But, in the present case, the owner has not come into the witness box to state that he has verified the licence. So, the report has been called by this Court to prove the fact that driving licence relied upon by respondent No.1 was not a valid driving licence. It is settled law that renewal of a fake driving licence does not make it a valid document.

So, in these circumstances, the finding on Issue No.3 does not call for any interference. Consequently, the appeal is without any merit and the same stands dismissed.

(K.C. PURI)
JUDGE

30.07.2015
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