**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**FAO No. 4039 of 2012(O&M)
Date of Decision: 12.02.2015**

Reliance General Insurance Company Ltd.

... Appellant

vs.

Naresh Chand @ Naresh Kumar and others

... Respondents

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

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Argued by:- Mr. T.K. Joshi, Advocate
for the appellant.**

**Mr. Randeep Singh, Advocate
for respondent No.1.**

ANITA CHAUDHRY, J.

This appeal is by the insurance company disputing the liability foisted upon it by the Motor Accident Claims Tribunal, Karnal (for brevity, the 'MACT') whereby they were directed to indemnify the claimant Naresh Chand and then recover the amount from the owner driver.

The grouse of the insurance company is that the despite a categoric finding that the driver of the offending vehicle was not holding a valid and effective driving license at the time of accident, they had been directed to satisfy the award in the first instance but recovery rights were given.

I have heard learned counsel for the parties and perused the impugned award.

The issue raised in this appeal is no more *res integra.* It has consistently been held in catena of judgments that the insurance company cannot be absolved of its liability to compensate the claimant where the driver of the offending vehicle does not possess a valid and effective license. It has to satisfy the award at the first instance and thereafter to recover the same from the owner and the driver. Learned Tribunal had given the following reasons:-

> *"33. As far as the effect of this breach on the liability of the insurance company, is concerned, this dispute is no more res intergra as the Hon'ble Apex Court after considering the law laid down in New India Assurance Company Vs. Kamla 2001(4) SCC, 342, in National Insurance Company Vs. Swaran Singh and others 2004(3) SCC 297 reiterated that the owner of a motor vehicle in terms of Section 5 of the Act has a responsibility to see that no vehicle is driven except by a persn who does not satisfy the provisions of Section 3 or 4 of the Act. In a case, therefore, where the driver of the vehicle, admittedly, did not hold any licence and the same was allowed consciously to be driven by the owner of the vehicle by such person, the insurer is entitled to succeed in its defence and avoid liability. However, it was also reiterated that as per the law down in New India Assurance Company Vs. Kamla Devi (supra), the insurance company cannot get rid of its liability to pay the compensation to the third parties but it can recover the amount from the owner of the vehicle by initiating appropriate proceedings for the recovery of the amount paid by it to the claimants. This very principle was reiterated by the Hon'ble Apex Court in Ishwar Chandra*

& Ors. Vs. The Oriental Insurance Company Ltd. & Ors. 2007(2) RCR(Civil) 370."

There is no reason to take a different. The appeal is dismissed.

12.02.2015 **(ANITA CHAUDHRY)**
Jiten **JUDGE**