

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1)

FAO No.4566 of 2012 (O&M)

United India Insurance Company Ltd.

...Appellant

Versus

Achla Devi and others

...Respondents

(2)

FAO No.4567 of 2012 (O&M)

United India Insurance Company Ltd.

...Appellant

Versus

Rajwant Kaur and others

...Respondents

Date of Decision: July 06, 2015

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Suvir Dewan, Advocate
for the appellant-Insurance Company.

Service of respondents No.1 to 3 dispensed with.

None for respondents No.4 and 5.

Mr.Sandeep K.Sharma, Advocate
for respondent No.6.

INDERJIT SINGH, J.

Both the above-mentioned FAOs are taken up together for disposal being arisen from same occurrence and the points involved for determination are also the same.

FAO No.4566 of 2012 has been filed by United India

Insurance Company Ltd., Insurer of truck bearing registration No.PB-07C-1685 against the claimants-respondents No.1 to 3-Achla Devi, Mitiak, Vishal and respondents No.4 to 6-Sadhu Singh, owner, Amrik Singh driver of offending vehicle and Yashpal and FAO No.4567 of 2012 has been filed by the same Insurance Company as above against claimants-respondents Rajwant Kaur, Pawanpreet Singh, Piar Kaur and same respondents No.4 to 6 as mentioned above, challenging the impugned Awards dated 02.04.2012 passed by learned Motor Accident Claims Tribunal, Shaheed Bhagat Singh Nagar (hereinafter referred to as 'Tribunal'), whereby compensation to tune of ₹8,20,100/- to claimants Achla Devi, Mitiak and Vishal, on account of death of Rashpal Kumar (in MACT case No.RBT-65 of 2010) and ₹13,76,936/- to claimants Rajwant Kaur, Pawanpreet Singh and Piar Kaur on account of death of Kulwinder Singh (in MACT case RBT No.66 of 2010) have been awarded along with interest @ 6% per annum, if the compensation is paid within three months and in default, 8% per annum, from the date of filing of claim petition till realization.

The brief facts of the case are that on 22.05.2009 at about 4.00 P.M., Kulwinder Singh was driving his scooter bearing registration No.PB-10R-6675 and Rashpal Kumar was pillion rider. They were going from Shaheed Bhagat Singh Nagar towards Rahon and when they reached near village Hayala, then a truck bearing registration No.PB-07C-1685 (offending vehicle), which was being driven by its driver in a rash and negligent manner at high speed, came from opposite direction and hit their scooter and with the impact

of accident, both of scooter riders fell down and received multiple injuries. Kulwinder Singh died at the spot and Rashpal Kumar died on the way to the hospital. FIR was registered. Claimants claimed compensation of ₹20 lacs in each case.

Learned Tribunal, after going through the evidence, awarded the compensation to the claimants as stated above but both the claim petitions against Sadhu Singh (owner) [present respondent No.4 in both cases] were dismissed.

Aggrieved from the above-said award, present appeals have been filed by the Insurance Company.

Notice of motion was issued. Service of respondents No.1 to 3 was dispensed with. Learned counsel for respondent No.6 in both cases appeared and contested the petition. None appeared on behalf of respondents No.4 and 5 despite service.

At the time of arguments, learned counsel for the appellant only argued on one point that in this case the driving licence of the driver of the offending vehicle was fake, therefore, any subsequent renewal will not make it valid one and the Insurance Company should be given recovery rights.

On the other hand, learned counsel for respondent No.6 argued that the Tribunal has correctly appreciated the evidence and the Insurance Company failed to prove that driving licence of Amrik Singh is fake.

After hearing learned counsel for the appellant as well as learned counsel for respondent No.6 and after going through the

record, I find that in the present case, Mr.Dhiraj Sehajpal was appointed as Local Commissioner, who gave his report Ex.R-3. The Local Commissioner has recorded the statement of Clerk of ARTO Sunil Kumar Singh with regard to the validity of the driving licence No.3077/MIR/06 in the name of Amrik Singh. In his statement, he stated that original record is not available in their office but he stated that he has seen the photocopy of the licence Ex.R1 and stated that copy was not issued by their office and he proved the report made by his office. The Tribunal after considering this report and also considering the statement of the Clerk, recorded by the Local Commissioner, reached to the conclusion that without producing the original record, in no way, it can be held that the driving licence of Amrik Singh has not been issued by RTO, Office, Mathura. Only from the original record, it can be verified that whether the driving licence was issued or not. The Clerk in his statement has stated that number of the licence is of their office but the Tribunal held that without production of original record, it cannot be held whether this driving licence was issued in the name of Amrik Singh or someone else. The Tribunal also held that the onus was heavily on the Insurance Company to prove that driving licence in the name of Amrik Singh is a fake driving licence. This driving licence was also renewed from the office of DTO, SBS Nagar, which is Ex.R-4 and they might have seen some documents before renewing the licence. The Tribunal after appreciating the evidence, reached to the right conclusion that Insurance Company has not led sufficient evidence to give the finding

that the driving licence Ex.R-1 in the name of Amrik Singh is fake driving licence.

The perusal of the findings given by the Tribunal shows that these findings are as per the evidence on record and have been given correctly by appreciating the evidence on record. The Insurance Company has not led any cogent evidence to prove that driving licence issued to Amrik Singh by RTO Office, Mathura is fake one. As the original record has not been produced before the Local Commissioner, therefore, there is no value of the statement of the Clerk that the copy of the driving licence has not been issued by their office. This statement can be relied upon only if some record would have been produced to corroborate his statement, specially when the Clerk of ARTO office, Mathura, admitted that number of the driving licence relates to their office. Therefore, it can be proved only from the original record that the driving licence in question is fake one and was not issued to Amrik Singh. So, from the above, I find that the Insurance Company has failed to prove that the driving licence held by Amrik Singh is fake one and therefore, the recovery rights cannot be given against the owner.

In view of above discussion, I find that the findings given by the Tribunal are correct, as per law and do not require any interference from this Court and the same are upheld.

Therefore, finding no merit in both the above-stated FAOs, the same are dismissed.

July 06, 2015

Vgulati

**(INDERJIT SINGH)
JUDGE**