

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No.5942 of 2012 (O & M)
Date of Decision: *February 09, 2015*

Manjit Singh & another

..... APPELLANT(S)

VERSUS

Jagat Pal & another

..... RESPONDENT(S)

. . .

CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

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

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PRESENT: - Mr. C.R. Olla, Advocate, for the appellants.

 Mr. Navin Kapur, Advocate, for respondent No.2.

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Jaspal Singh, J

1. Aggrieved against Award dated February 02, 2010 passed by the Motor Accident Claims Tribunal, Fatehabad (for short, 'Tribunal') in MACT Case No.70-MACT of 2007 captioned as 'Jagat Pal vs. Manjit Singh & others', appellants i.e. driver and owner of offending Bus No.HR-62/2021 have preferred the instant appeal seeking set aside of the impugned award and fixing the

liability upon Insurance Company to indemnify the insured or the victims.

2. While challenging impugned award and findings recorded by learned Tribunal, especially, on Issue No.3, it has been argued with vehemence by learned counsel for appellants that the same are absolutely against evidence available on file and settled canons of law. Learned Tribunal has based his findings on conjectures and surmises while holding that driver – appellant No.1 was not holding a valid and effective driving license at the time and date of accident and further, that owner – appellant No.2 was not possessing valid route permit.

3. The learned counsel has referred to photocopy of driving license (Annexure A-3) as well as verification report thereof (Annexure A-4) to buttress his contention that appellant No.1 was holding a valid and effective driving license. Further, in order to fortify his contention that route permit was valid on the date of accident, learned counsel has referred to the copy of Stage Carriage Permit, Annexure A-2 (Ex.R-1), according to which, appellant No.2 was possessing a valid route permit.

4. While concluding his arguments, it has been contended by learned counsel for the appellants that in view of above referred contentions put-forth by him coupled with documentary evidence, findings recorded by the Tribunal on Issue No.3 are not sustainable in the eyes of law. Consequently,

observation with regard to right to recover the amount of compensation from the insured by the Insurance Company is liable to be set aside/ quashed and impugned award dated February 02, 2010 deserves to be modified.

5. Per contra, learned counsel for respondent No.2 – Insurance Company has ebulliently argued that close scrutiny of route permit, Annexure A-2, clearly indicates that it was issued on September 04, 2007 whereas accident in question occurred on August 03, 2007. As such, it is clear that offending vehicle was being driven on the date, time and place of accident without any route permit. Similarly, driving license being illegible, learned Tribunal has rightly concluded that driver was not holding a valid and effective driving license. Since, impugned award is absolutely in consonance with the evidence available on file and legal proposition applicable to the facts and circumstances of the case, instant appeal being devoid of merit is liable to be dismissed with special costs.

6. This court has given an anxious thought to the submissions made by learned counsel for the parties and perused the record.

7. It is an undisputed fact that appellant No.1 i.e. driver of the offending vehicle has been held to be rash and negligent while driving the bus in question, as a result of which, accident occurred and buffalo belonging to the claimant died.

8. As far as the contention of learned counsel for appellant with regard to validity and legality of driving license (Annexure A-3) is concerned, there is a report (Annexure A-4) of the office of Licensing Authority –cum- Secretary, RTA, Hisar. According to said report, driving license No.105128 dated January 08, 1999 was issued to Manjit Singh son of Sher, resident of village Kishangarh, Tehsil Adampur, District Hisar, valid upto July 18, 2005. Subsequently, it was renewed w.e.f. July 17, 2008 to July 07, 2011. So, as per verification report (Annexure A-4), driving license (Annexure A-3) was valid and genuine on the date of accident i.e. August 03, 2007. Thus, findings recorded by the Tribunal qua this are modified holding that appellant No.1 i.e. driver of the offending bus was holding a valid, effective and genuine driving license on the date of accident.

9. Coming to the route permit, it can be said without any hesitation that insured did not possess a valid route permit at the time, date and place of accident. The copy of route permit, Annexure A-2, referred to and relied upon by learned counsel for the appellants during the course of arguments, was issued on September 04, 2007 when it was replaced by new vehicle No.HR-62/2021 i.e. offending bus, meaning thereby, on the date of accident i.e. August 03, 2007, bus in question was being driven without any route permit or authorization. The findings in this regard are absolutely correct

and do not call for any interference by this Court, rather, the same are affirmed.

10. Since the vehicle was being driven without any route permit on the date of accident, learned Tribunal has rightly given the recovery rights to the Insurance Company to recover the amount so paid by it to the claimant.

11. In the light of what has been discussed above, there is no merit in the instant appeal and the same is dismissed whereby impugned award dated February 02, 2010 is upheld.

12. No order as to costs.

February 09, 2015
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(Jaspal Singh)
Judge