

**221 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**FAO No.1096 of 2013 (O&M)  
Date of Decision: July 13, 2015**

**Satpal**

**.. Appellant**

**vs.**

**Shri Ram General Insurance Co. Ltd. and others .. Respondents**

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

**Present:** Mr. Rajesh Lamba, Advocate for the appellant.

None for the respondents.

*1. Whether Reporters of Local Newspapers 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?*

**Kuldip Singh J.(Oral)**

**CM-6826-CII-2013**

There is a delay of 108 days in filing the present appeal.

For the reasons mentioned in the application supported by an affidavit, delay of 108 days in filing the present appeal is condoned subject to all just exception.

Application stands disposed of .

**FAO-1096-2013**

Impugned in the present appeal is the order dated 29.08.2012 passed by the Motor Accident Claims Tribunal, Gurgaon ('the Tribunal').

Brief facts of the case are that on 02.08.2010, claimant Vinod Kumar was hit by dumper bearing registration No.HR-55J-4586 being driven by its driver Shehjjad Khan. As a consequence of the accident, the claimant received injuries. The claimant claims that the offending dumper was being driven rashly and negligently.

Before the Tribunal the driver, owner as well as the Insurance Company contested the case.

The Tribunal after recording the evidence came to the conclusion that at the time of accident, driver (respondent No.2 herein) was not holding the valid driving licence. The findings were recorded on the basis of the letter i.e. certificate issued by the Licensing Authority (Ex.R2) received by the Court and exhibited by the Insurance Company before the Tribunal. The evidence of respondent No.2 was closed by the orders. Consequently, the Award of ₹6,50,000/- (rupees six lac fifty thousand only) was passed in favour of the claimant along with interest @ 6% per annum from the date of filing of the claim petition till its realization. The Insurance Company was made liable to pay the compensation with a right to recover the same from the driver and insured.

I have heard learned counsel for the appellant and have also carefully examined the lower court record.

Today none has appeared for the respondents.

The contention of learned counsel for the appellant is that the concerned Clerk of Motor Licensing Authority, Dhanbad, (Jharkhand) was being summoned throughailable warrants. But in place of appearing, the said Authority addressed a letter (Ex.R-2) to the Tribunal and the Insurance Company exhibited the same.

It is further contended that on the date when the letter was exhibited, learned counsel for the appellant was not present and that his presence was wrongly marked. On the same day, the evidence of the appellant was also closed by orders.

I have given thoughtful consideration with the contention of learned counsel for the appellant.

First of all, it is to be noticed that the strict provisions of Civil Procedure Code are not applicable to the proceedings in any inquiry under the Motor Vehicles Act, 1988 for grant of claim.

A perusal of the file shows that when the evidence of the claimant was closed on 21.09.2011, the case was fixed for evidence of the respondents. Nowhere, the present appellant claimed that the Insurance Company should be directed to lead the evidence first and only then he will lead the evidence. The respondents were directed to lead the evidence. Two opportunities were granted and thereafter, it appears that Clerk of the Licensing Authority, Dhanbad (Jharkhand) did not appear and hisailable warrants were issued. Thereafter, three more adjournments were granted.ailable warrants were not

executed. Rather a letter was received from the said Licensing Authority. The letter along with the envelop was tendered in to evidence by the learned counsel for the Insurance Company without any objection from the present appellant.

In the letter, it is reported that the driving licence claimed to be of respondent No.1 stands in the name of some other person and consequently fake. Since the letter was tendered into evidence without any objection, therefore, in the inquiry the Tribunal could consider the same. Even in the appeal, no additional evidence is sought to be led to prove that the contents of the letter are incorrect and in fact the driving licence of respondent No.2 is genuine one.

It being so, no fault can be found with the findings recorded by the Tribunal.

The present appeal is consequently dismissed.

**July 13, 2015**  
sarita

**(KULDIP SINGH)**  
**JUDGE**