

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 10043 of 2014 (O&M)
Date of Decision:- 22.07.2015

Ramesh Kumar @ Ramesh Chand

.....Appellant

Versus

Shail Devi and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

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

Present: Mr. S.S. Dinarpur, Advocate
for the appellant.

Ms. Rajni, Advocate
for Mr. Bahadur Singh, Advocate
for respondent Nos.1 to 6.

Mr. Vishal Aggarwal, Advocate
for respondent No.7.

Mr. J.S. Cooner, Advocate
for respondent No.8.

Mr. Sanjiv Pabbi, Advocate
for respondent No.10.

SHEKHER DHAWAN, J.

Appellant-Driver and owner of three wheeler, challenged the

Award dated 08.08.2014 passed by Motor Accident Claims Tribunal,

Yamuna Nagar at Jagadhri (hereinafter to be referred as 'The Tribunal'), whereby 'The Tribunal' has awarded compensation of ₹8,00,000/- and liability was fastened upon driver and owner as well as Insurance Company. Insurance Company was given the recovery rights to recover the amount of compensation.

2. Learned counsel for the appellant took the plea that Insurance Company has been given recovery rights by 'The Tribunal' on the ground that respondent No.1 was not having valid driving licence and same was fake. The onus was lawfully placed upon Insurance Company to prove that driving licence bearing No.49442/TV/Z/2009 was not genuine. To prove this fact, learned counsel for the appellant took the plea that 'The Tribunal' fell in error while returning findings on issue No.1 that Insurance Company was entitled to recover the amount from driver and owner though the vehicle was duly insured with Insurance Company. Reports Ex.R13 and Ex.R16 are not the correct reports, upon which 'The Tribunal' has placed reliance while awarding the recovery rights to the Insurance Company. Learned counsel for appellant also took the plea that appellant has been able to obtain letter No.560 dated 03.03.2015, which was received from the office of District Transport Officer Zunheboto, Nagaland and the permission was sought to allow the same to be produced by way of additional evidence. The said letter was received by post from the office of District Transport Officer of Zunheboto, Nagaland, whereby the office of DTO had clarified that the driving licence of the appellant is valid and the said findings returned by 'The Tribunal'.

3. While arguing on these points, learned counsel for the respondents took the plea that 'The Tribunal' has already returned the findings on the basis of evidence available on file, which has been duly approved on the file and at that time appellant was led evidence Ex.R14 but nothing was available on file. More so, as per provisions of Section 8 of The Motor Vehicles Act, person was resident of the area from where the licence was issued but in the case in hand appellant Ramesh Chand is resident of village Naya Gaon, P.O. Sabapur, Tehsil Jagadhri, District Yamuna Nagar, whereas his driving licence bearing No.49442/TV/Z-09 was issued from office of District Transport Officer, Zunheboto, Nagaland and that fact itself established that driving licence was not valid but there is no evidence available on file that Ramesh Chand driver had undergone any training before issuance of driving licence or appeared for any driving test, etc. To the contrary, reports Ex.R-13 and R-16 are the genuine documents, upon which 'The Tribunal' has placed reliance and returned the findings. So, the appeal be dismissed.

4. Having considered the rival submissions made by learned counsel for both the parties, this Court is of the considered view that the driving licence in question was allegedly issued by District Transport Officer, Zunheboto, Nagaland. Appellant-Ramesh Chand, in whose favour the driving licence was issued is resident of village Naya Gaon, P.O. Sabapur, Tehsil Jagadhri, District Yamuna Nagar. There is absolutely no evidence available on file or no document has been produced on file along with application for additional evidence filed after decision by 'The Tribunal' that Ramesh Chand was in fact resident of

Nagaland and not of Yamuna Nagar. Hence, as per provision of Section 8 of Motor Vehicles Act, 1988: -

“8. Grant of learner’s licence.—

(1) Any person who is not disqualified under section 4 for driving a motor vehicle and who is not for the time being disqualified for holding or obtaining a driving licence may, subject to the provisions of section 7, apply to the licensing authority having jurisdiction in the area.

i) in which he ordinarily resides or carries on business, or

ii) in which the school or establishment referred to in section 12 from where he intends to receive instruction in driving a motor vehicle is situate, for the issue to him of a learner’s licence.”

5. 'The Tribunal' was in a position to appreciate the evidence available on file i.e. reports Ex.R13 and Ex.R16. More so, in the case in hand application dated 31.08.2013 was filed before 'The Tribunal' to seek clarification from D.T.O. Authority/Licencing Authority regarding the genuineness of the documents but the report was received from office that the said driving licence was never issued. In the light of this background, positive evidence is available on file. There was no reason for 'The Tribunal' to come to a finding other than the finding already recorded by 'The Tribunal' that driving licence of respondent No.1-Ramesh Chand was not a valid licence on the date of accident. Such findings do not call for any interference.

6. Resultantly, the present appeal is without any merit and same stands dismissed.

July 22, 2015
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(SHEKHER DHAWAN)
Judge