

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

**FAO NO. 1836 OF 2015 (O&M)
DECIDED ON : 07.04.2015**

Bajaj Allianz General Insurance Company

...Appellant

versus

Ram Dulari and others

...Respondents

CORAM : HON'BLE MR. JUSTICE K. C. PURI

Present : Mr. Vishal Aggarwal, Advocate with
Mr. Bhupinder Ghai, Advocate,
for the appellant.

K. C. PURI, J. (ORAL)

CM NO. 5588-CII OF 2015

There is delay of 07 days in filing the appeal. The same stands condoned for the reasons mentioned in the application.

MAIN CASE (O & M)

This is an appeal directed by Bajaj Allianz General Insurance Company against the Award dated 20.11.2014 passed by Shri H. S. Grewal, Motor Accident Claims Tribunal, Ludhiana, vide which the claim petition preferred by the claimants, has been partly accepted and the Insurance Company/appellant has been directed to pay the amount to the claimants within a period

of two months and the recovery rights have been given to the appellant to recover the amount from respondents No.1 and 4 i.e driver and owner of the offending vehicle without taking recourse to a separate suit from executing court itself.

The only challenge made by the Insurance Company against the Award is that since respondent No.1-Jagir Singh was not holding a valid driving license and as such, the Tribunal has committed error by ordering to pay the amount of compensation and recovering the same from driver and owner.

The said point is not res integra and has been decided by three Judges Bench of Hon'ble Apex Court in authority "***National Insurance Co. Ltd vs. Swaran Singh and others***" **2004 ACJ (1)**. In the said authority, it has been held that since there is valid insurance policy and as such, the Insurance Company should pay the amount to the claimants and in case there is violation of terms of the policy, i.e driver was not having a valid license or having fake license, in that case the Insurance Company can get the amount recovered from owner without resorting to separate suit in an execution petition. The rights of Insurance Company have already been protected by the Tribunal.

In view of the above discussion, the appeal is without any merit and the same stands dismissed.

Disposed of.

APRIL 07, 2015
shalini

(K. C. PURI)
JUDGE