IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No.5510 of 2014 (O&M)
Date of Decision: 31.03.2015

New India Assurance Company Ltd.

..... APPELLANT

VERSUS

Gurpal Singh and others

..... RESPONDENTS

PRESENT: - Mr. Vinod Gupta, Advocate
for the appellant.

None for respondent No.3.

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

1) Whether Reporters of the 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?

SHEKHER DHAWAN, J.

The appellant insurance company has challenged the award dated 25.04.2014 whereby the Tribunal awarded compensation of ₹74,000/- on account of injuries having been caused to respondent Gurpal Singh in motor vehicle accident on 06.10.2012.

The brief facts relevant for the purpose of decision of appeal that on 06.10.2012, claimant-respondent Gurpal Singh was going on motor cycle bearing No.PB-39-E-4244 and accident took place involving truck bearing registration No.PB-05-H-5509. As per claimant-respondent, the accident had taken place because of rash and negligent driving of respondent No.1 Kuldeep Singh, who was driving the truck. The matter was reported to the police. The claimant sustained injuries and was taken to PGI where he remained as indoor patient from 06.10.2012 till 16.10.2012. As per claimant, he had to spend ₹2,50,000/- on his treatment. He was earning ₹30,000/- per month and there was loss of earnings as well to the claimant. The claimant sought compensation jointly and severally from driver and owner of the truck and appellant Insurance Company.

The respondents contested the claim petition.

The Tribunal returned the findings that the accident had taken place because of rash and negligent driving of respondent No.1 and, as such, the claimant is entitled to receive a sum of ₹74,000/- on account of amount spent on his treatment, loss of earnings, pain and suffering and transportation charges. The liability to pay the amount was jointly and severally as the Tribunal returned the findings that respondent No.1 was having driving license to drive the truck and the truck was ensured with Insurance Company i.e. appellant-respondent No.3.

Aggrieved with the said findings returned by the Tribunal, appellant Insurance Company is before this Court.

Mr. Vinod Gupta, learned counsel for the appellant took the plea that even the Tribunal had returned the findings that respondent No.1 was not having valid driving license as the original driving license No.1185 was issued in the name of Darinderjit Singh son of Gurmail Singh and subsequently renewal of such a driving license cannot be considered to be genuine as respondent No.1 was not holding legal and valid driving license on the date of accident. There is no liability on the part of appellant-Insurance Company.

The Tribunal had not accepted the contention of Insurance Company and came to the conclusion that even if it is assumed that the license was in the name of some other person merely that fact would not render the driving license of respondent invalid.

Thus, findings recorded by the Tribunal are just based on presumptions that Office of DTO, Gurdaspur might have committed a mistake in mentioning the old driving license. Mere renewal of invalid driving license does not make out a case of valid driving license thereby fixing the liability of Insurance Company. Such a law was laid down by Hon'ble the Supreme Court in case of **National Insurance Company Ltd. Vs. Swaran Singh and others**, 2004(2) RCR (Civil) 114.

If the driver was not having valid driving license on the date of accident, the Insurance Company is not liable to pay any compensation as the Insurance Company is to make the payment of compensation on the basis of contractual obligation and any violation in the terms and conditions of insurance policy would exonerate the Insurance Company from making the payment of awarded amount.

In view of the above, the present appeal filed by the Insurance Company is accepted and award is modified that the liability to pay amount of compensation shall not be of appellant-Insurance Company rather the liability to pay the amount of compensation shall be of driver and owner i.e. Kuldeep Singh respondent No.1 in the claim petition and M/s Chandigarh Distillery Botlers, Ltd. Chandigarh respondent No.2 in the present appeal. In case the amount of compensation already deposited by appellant-Insurance Company, the Insurance Company shall be entitled to receive the said amount along with interest @ 7.5% from the date of payment till receipt of the amount.

(SHEKHER DHAWAN)
JUDGE

March 31, 2015
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