

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 588 of 2015 (O/M)
Date of decision : 30.3.2015

Ashok Kumar

..... Appellant

Versus

The New India Assurance Company Ltd. and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Sanjay Jain, Advocate, for the appellant.

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

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KULDIP SINGH, J. (ORAL)

This appeal has been filed by the owner of the offending truck bearing Registration No. HR-37-A-0940 Ashok Kumar against the award dated 16.9.2014, passed by the Motor Accident Claims Tribunal, Ambala, (in short 'the Tribunal') vide which award for Rs. 14,74,000/- was passed and the recovery rights were given to the insurance company on the ground that the licence of the driver of the offending truck-respondent No. 2 was found to be fake.

A perusal of the award shows that the Tribunal had directly written a letter (Ex.R7) to the DTO, Thoubal (Manipur) for verification of the licence (Ex.R1) of the driver of the offending truck i.e. respondent No. 2 (herein). The report was received alongwith

the copies of the register Ex.R11 to Ex.R13, which show that the licence was not issued by the said authority at Thoubal (Manipur). It is to be added here that respondents did not lead any evidence to rebut those documents or the report of the DTO, Thoubal (Manipur). It being so, the licence of respondent No. 2 (herein) was found to be fake. Once the licence was found to be fake, though, validly renewed, the recovery rights were rightly given to the insurance company.

Learned counsel for the appellant has argued that the amount awarded by the Tribunal is excessive. 1/4th was deducted as personal expenses.

In this case, the number of dependents have been mentioned as five. Therefore, 1/4th as personal expenses were rightly deducted. There is also no fault of the Tribunal in awarding the compensation under the head of 'loss of love and affection' to the mother, father and sister.

Learned counsel refers to the authority of the Hon'ble Supreme Court in Sait Tarajee Khimchand and others Versus Yelamarti Satyam and others, AIR 1971 Supreme Court 1865 as well as the authorities of this Court in National Insurance Co. Ltd. Versus Santosh and others, 1999 ACJ 1262 and United India Insurance Company Ltd. Versus Shanti Devi, 2008 (2) Law Herald (P and H) 1464, saying that the documents were exhibited without examining any witness.

I am of the view that since the report was directly called by the Tribunal, the report itself is sufficient to hold that the licence of the driver of the offending truck-respondent No. 2 (herein) was fake. It was always open to the appellant (owner) and respondent No. 2 (driver) to rebut such evidence. However, they chose not to lead any evidence.

It being so, the appeal is found to be without any merit. Accordingly, the present appeal stands dismissed.

(KULDIP SINGH)
JUDGE

30.3.2015
sjks