

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 1168 of 1993 (O&M)
Date of decision : March 14, 2016

Smt. Sushma Gupta,

..... Appellant

v.

Ranpat Singh and others,

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Hemant Kumar, Advocate
for the appellant.

Mr. Vinod Chaudhary, Advocate
for respondent No.2.

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 ?**

Ajay Tewari, J (Oral)

C.M No.16303 CII of 2015

For the reasons recorded, this application is allowed and delay of 541 days in filing the application for restoration of the main appeal is condoned.

CM No.16304 CII of 2015

For the reasons recorded, this application is allowed, the order dated 16.01.2014 is recalled, and the main appeal is restored to its original number.

FAO No.1168 of 1993

This appeal has been filed by the owner against the Award of the Tribunal dated 21.5.1993 absolving the Insurance Company of the liability and foisting the same on her along with respondent No.3.

Brief facts are that on 27.1.1991 at about 6 pm, the claimant and his son-in-law Dharampal were coming after collecting wooden karris (batten) and when they crossed the road near Sukhpura Chowk Rohtak, the offending truck being driven by respondent No.1 being driven rashly and negligently hit the claimant and crushed his right leg, which was later-on amputated. The Tribunal held respondent No.1 responsible for causing this accident and awarded a total sum of ₹ 1 lac as compensation. The Tribunal absolved the Insurance Company from the liability and directed respondents No.1 and 2 to pay the compensation jointly and severally.

Before the Tribunal, RW2 had established that the licence of respondent No.2 which is claimed to be originally issued at Una was actually a fake licence. On the strength thereof, the Tribunal held that even a valid renewal could not lend any legality to such a licence. Reference may be made to a decision of the Hon'ble Supreme Court in New India Assurance Co. v. Kamla (SC) 2001(3) RCR (Civil) 716. I find that this exact point was considered by their Lordships where it has been conclusively held that renewal of a fake licence will not result in validating the same.

The second argument raised is that where the owner has appointed a driver after taking steps to see that he has a driving licence, he cannot be foisted with the liability.

Counsel for the Insurance Company has, however, pointed out that neither there is any pleading nor is there any evidence to the effect that the owner had satisfied herself even prima facie about the validity of the driving licence or about the driving skills of the driver.

Counsel for the appellant is not able to deny this fact.

Consequently, finding no merit in this appeal, the same is dismissed.

March 14, 2016
`kk'

(AJAY TEWARI)
JUDGE