IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1295 of 2000
Date of Decision.22.03.2016

National Insurance Company Limited ....Appellant

Vs.

Balraj and others ....Respondents

Present: Mr. Neeraj Khanna, Advocate for
Mr. R.M. Suri, Advocate
for the appellant.

None for the respondents.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of 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?

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K. KANNAN J. (ORAL)

1. Publication effected. Service is deemed to have been complete for 2nd respondent.

2. The appeal by the insurance company is on a plea that the driver did not have a valid driving licence. The original driving licence had been issued by DTO office at Ajmer and the insurance company had summoned an official from the DTO office at Ajmer to prove that it had not been issued by their office at Ajmer. The licence borne endorsement of renewals from the DTO Tohana and still later at Hisar. The subsequent renewals had been shown to be bad by the insurance company. The Tribunal, therefore, relied on a Full Bench decision of this Court in ***National Insurance Company Limited Vs. Sucha Singh and others 1994(2) SLJ (P&B) 1005*** which was a law prevailing at that

time and held that even if it was a fake licence since there had been valid renewals that will save the owner from being deprived of right of indemnity.

2. The counsel for the insurance company argues the decision in ***Sucha Singh's*** case is no longer a good law in view of the decision of the Supreme Court in ***National Insurance Company Limited Vs. Swaran Singh (2004) 3 SCC 297***. While I would hold that even a valid renewal will not validate a fake driving licence issued and proved to be fake, it has to be read in the context of how this law is impacted by yet another decision of Supreme Court in ***Pepsu Road Transport Corpn. v. National Insurance Co., (2013) 10 SCC 217***. The Supreme Court has held that it is invariably the belief of the owner that is a focal point for consideration of whether there had been a violation of terms of policy or not. The Court has gone as far as to state that it is not necessary for the owner to make even a cross verification of whether the driving licence issued by the DTO office was genuine or not. If on the date of the disposal of the case, the insurance company had not proved the subsequent renewals also to be fake, I would extend that the owner was acting on such a belief and there was no necessity for him to even give evidence that he did not know that the original issue of driving licence was false because the law prevailing at that time had made irrelevant the status of original driving licence.

3. It will be needless waste of time to allow for remand of the matter only to elicit from the owner of what he thought about the original issue of driving licence when the subsequent renewals were there that could be taken as responsible for the owner to act upon such

a renewal. The insurance company has been made liable by applying the law that was prevalent at that time and I do not think it necessary to reopen the issue at this length of time particularly in view of the decision in ***Pepsu Road Corporation*** (supra).

4. The order making the insurer liable and allowing for indemnity of the owner and driver is maintained and the appeal is dismissed.

(K. KANNAN)
JUDGE

March 22, 2016
Pankaj*