IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1923 of 1997 (O&M)
Date of decision: 05.04.2016

Parvinder Singh and another ...Appellants

Versus

Harpal Singh and another ....Respondents

CORAM:HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

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Present: Mr. A.S. Virk, Advocate
for the appellants.

Mr. Suvir Dewan, Advocate
for the respondent-Insurance Company.

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HARINDER SINGH SIDHU, J.

Respondent No.1-Harpal Singh filed claim petition seeking compensation on account of injuries sustained by him in a motor vehicle accident which took place on 15.03.1996. As per averments in the claim petition he along with Kailash Singh son of Gurdev Singh, resident of Lakhnora, P.S. Naraingarh was going to Mohan Nagar, Kurukshetra on Scooter bearing No. HR-04-4207. When they reached Pipli Road near Ratgal Petrol Pump, Kurukshetra, tractor trolley bearing No. HR-07A-8364 struck against the scooter causing the accident.

On the basis of evidence, the Tribunal held that the accident was caused due to negligence of appellant No.2, who was driving the tractor trolley. An amount of Rs.70,000/- was awarded as compensation to respondent No.1. In view of the fact that Driving Licence of appellant No.2 was not on record, it was concluded that he was driving the Tractor without having a valid Driving Licence. Accordingly, respondent No.2-Insurance Company was absolved of responsibility to indemnify and it was held that

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the compensation was to be paid by appellant no. 1 and 2 jointly and severally.

During the pendency of the appeal, the appellants moved an application under Order 41 Rule 27 C.P.C. for producing the Driving Licence of appellant No.2 by way of additional evidence. On 16.01.2015, it was stated on behalf of Ld. Counsel for the respondents that he would file reply to the application or get the driving licence verified before the next date of hearing.

Today, reply to the application by way of an affidavit of Gopal Krishan, Assistant Manager, National Insurance Co. Ltd. Regional Office-II, SCO 337-340, Sector 35-B Chandigarh has been filed in which it has been stated that as per the verification report of investigator, the Driving Licence bearing No.7729/T/92 dated 20.04.1992 pertaining to Arvinder Singh s/o Sh. Teja Singh (appellant No. 2) which was issued by Licensing Authority, Thanesar is valid upto 30.10.2017 and is genuine. The licence is issued for Motorcycle, Scooter, Car, Jeep and Tractor only.

In view of the fact that Driving Licence possessed by appellant No.2 has been proved to be genuine, the finding of the Tribunal that Insurance Company is not liable cannot be sustained.

Accordingly, this appeal is allowed. The award of the Tribunal is modified to the extent that the compensation to the claimant be paid by respondent No.2-Insurer of tractor trolley No. HR-07A-8364.

05.04.2016 **(HARINDER SINGH SIDHU)**
Atul **JUDGE**

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