

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH.**

**(1)**

**CM No.936-CII of 2016 in/and  
FAO No.1861 of 2000 (O&M)  
Date of Decision: February 09, 2016.**

The New India Assurance Co. Ltd

**.....APPELLANT(s).**

**VERSUS**

Mrs. Krim Hild and others

**.....RESPONDENT(s).**

**(2)**

**CM No.960-CII of 2016 in/and  
FAO No.1862 of 2000 (O&M)**

The New India Assurance Co. Ltd

**.....APPELLANT(s).**

**VERSUS**

Mrs. Krim Hild and others

**.....RESPONDENT(s).**

**(3)**

**CM No.934-CII of 2016 in/and  
FAO No.1863 of 2000 (O&M)**

The New India Assurance Co. Ltd

**.....APPELLANT(s).**

**VERSUS**

Atul Kumar Thakur and others

**.....RESPONDENT(s).**

**CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA**

Present: Mr. V. Ramswaroop, Advocate  
for the applicant-appellant (s).

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**SURINDER GUPTA, J.**

**CM Nos.936-960-934-CII of 2016**

Heard.

The appeals were dismissed due to non-appearance of appellant or its counsel on 17.12.2015.

Learned counsel for the applicant-appellant submits that on that day, he was present in the Court but missed serial No.204, at which his appeals were listed, on the digital display board. On inquiry, he was apprised that the appeals were adjourned to 09.05.2016. He noted the date in his diary as 09.05.2016 but later on came to know that the appeals had been dismissed on 17.12.2015 due to his non-appearance. His non-appearance was not intentional.

In view of submission made by learned counsel for the applicant-appellant, the applications are allowed and appeals i.e. FAO No.1861 of 2000, FAO No.1862 of 2000 and FAO No.1863 of 2000 are ordered to be restored at their original numbers.

FAO Nos.1861-1862-1863 of 2000

The above captioned three appeals have been taken up together for disposal as these arise from award dated 18.05.2000 passed by Motor Accident Claims Tribunal, Panipat (later referred to as 'the Tribunal') vide which three claim petitions (MACT case Nos.76, 77 and 78 of 1999) were allowed. The challenge to the award is on short question of validity of the driving licence of the driver of tractor bearing registration No.PCV-3872 (later referred to as 'the offending vehicle').

Learned counsel for the appellant has argued that the driving licence (Ex.R-1) of respondent No.2 Satbir was got verified from the office of Motor Licensing Officer, Transport Department, Delhi and as per the

report (Ex.R-2), licence No.CC-92102814 was issued in the name of Shri Rajinder son of Ragbar, which shows that driving licence of respondent No.2 Satbir, bearing same licence number as mentioned in the report, was not a valid one and the appellant is entitled to the recovery rights against the owner of the offending vehicle for breach of terms and conditions of the insurance policy.

The above argument was also raised before the Tribunal and was duly considered. The report of the Licensing Authority, Delhi produced on record by the appellant as Ex.R-2 was ignored as it was not duly proved. The Tribunal observed that in the absence of any record produced by the witness examined by insurance company in support of report Ex.R-2, the plea that driving licence of respondent No.2, driver of offending vehicle, was not valid, cannot be accepted.

Learned counsel for the appellant could not assail the findings recorded by the Tribunal. It is apparent, on perusal of the above findings, that report/certificate Ex.R-2 was not duly proved. The witness who had been examined to prove the report Ex.R-2 had not brought the relevant record. The onus was heavily on the insurance company to prove that driving licence (Ex.R-1) produced by respondent No.1 was not legal and valid one, which it had failed to discharge.

In view of my above discussion, I find no legal or factual infirmity in the award passed by the Tribunal, calling for any interference.

The above captioned appeals have no merits. Dismissed.

**( SURINDER GUPTA )**  
**JUDGE**

**February 09, 2016.**