

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

**FAO-5765-2009 (O&M)
Date of decision: 26.02.2016**

The Oriental Insurance Co. Ltd.

...Appellant

Versus

Bachan Singh and others

...Respondents

**FAO-2348-2010 (O&M)
Date of decision: 26.02.2016**

Santokh Singh

...Appellant

Versus

The Oriental Insurance Co. Ltd. and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Sanjiv Pabbi, Advocate,
for the appellant in FAO No.5765 of 2009 &
for respondent No.1 in FAO No.2348 of 2010

Mr. R. C. Gupta, Advocate,
for respondent No.2

Mr. C. L. Sharma, Advocate
for the appellant in FAO No.2348 of 2010 &
for respondent No.4 in FAO No.5765 of 2009.

JITENDRA CHAUHAN, J.

CM NO.27633-CII of 2014 in FAO NO.2348 of 2010

No case is made out to lead the additional documents, at
this stage.

Accordingly, the present CM is dismissed.

Main Cases

The present appeal i.e. FAO No.5765 of 2009 has been filed by the appellant-Insurance Company, challenging the impugned Award dated 04.08.2009, passed by the learned Motor Accident Claims Tribunal, Gurdaspur.

The appeal i.e. FAO No.2348 of 2010 has been filed by the appellant-owner, challenging the impugned award dated 04.06.2005, passed by the learned Motor Accident Claims Tribunal, Gurdaspur.

The learned counsel for the appellant-Insurance Company refers to claim petition No.85 of 2003 titled as '**Lakhhbir Singh Vs. The Oriental Insurance Co.**', decided on 04.06.2005 to contend that as per the award passed, arising out of the same accident qua the claimant has awarded Rs.2,88,000/- and the same has attained finality. In the cited case, the insurance company had been given right to recover the same from the owner. Therefore, the learned Tribunal has erred in not granting the recovery rights to the appellant. Lastly, he asserted that the driver of the gas tanker was not holding any driving licence.

The learned counsel for appellant-owner has not been able controvert the aforesaid factual position.

I have heard learned counsel for the parties and perused the record.

Keeping in view the fact that the findings recorded in the '**Lakhbir Singh Vs. The Oriental Insurance Co.**', which arise from the same accident, and has attained finality, the appeal of the Insurance company is allowed to the extent of granting the recovery rights to the insurance company to recover the awarded amount from the owners. Since the driver of the truck, as per record, was not holding the valid and effective driving licence, therefore, the appeal preferred by the owner-Santokh Singh is dismissed.

26.02.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**