IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1455 of 2012 (O&M)

Date of decision : 12.2.2016

Satbir Singh

...Appellant

Versus

Reliance General Insurance Company Ltd. and others

...Respondent

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Shailender Mohan, Advocate for the appellant.

Mr. T.K.Joshi, Advocate for respondent No.1.

Mr.Sumit Sangwan, Advocate for respondent No.2.

<u>JITENDRA CHAUHAN, J.</u>

The present appeal on behalf of the owner is directed against the award dated 17.10.2011 passed by the learned Motor Accidents Claims Tribunal, Bhiwani.

Brief facts are that on 22.3.2009, claimant/injured, Soumya (aged 6 years) alongwith her parents had gone to Hansi. At around 8.30 a.m., they alighted from rickshaw and while the father of the claimant was making payment to the rickshaw puller, Suresh Kumar, respondent No.3 driving a Pick up Van bearing registration No.HR-39A/3098 (hereinafter referred to as the `offending vehicle') at a high speed and in rash or negligent manner, hit the minor girl. As a result, she got entangled with the offending vehicle and was thrown at a distance of 30-40 feet. She became unconscious and meanwhile, the driver/respondent No.3 fled away from the spot. The claim petition preferred by the minor girl on account of the injuries suffered by her was allowed by the learned Tribunal and the driver and owner (present appellant) of the offending vehicle were held jointly and severally liable to pay the compensation amount alongwith interest @ 6% p.a. from the date of filing this petition.

Learned counsel for the appellant vehemently argued that the finding recorded by the Tribunal that the driving license to drive the Car/Jeep/Scooter/Motor Cycle held by the driver-respondent No.3 was not valid at the time of accident, is against the record. It is further asserted that the Tribunal failed to consider the fact that the unladen weight was 1625 kg and gross weight of the vehicle was 2750 kg., therefore, it does not fall in the category of a transport vehicle as per Section 66 (3) (i) of Motor Vehicle Act, 1988. He further submits that mechanism for driving the Pick up vehicle and jeep being common and in view of the fact that driver was authorised to drive jeep as per the licence endorsement from 10.12.1996 to 9.12.2016 held by him, therefore, finding recorded by the Tribunal is not sustainable.

On the other hand, learned counsel for the claimant submitted that accident occurred due to rash or negligent driving of the driver. He further submitted that on the date of accident i.e. 22.3.2009, the FIR was registered and the report under Section 173 Cr.P.C. stands submitted before trial Court. The driver-respondent No.3 did not appear before the learned Tribunal, therefore, adverse inference deserves to be drawn against him. He further submits that Satbir Singh, appellant-owner was examined as RW4, who has admitted that no complaint with regard to false implication of the vehicle in the present case was lodged. Therefore, it is submitted that involvement of the vehicle as well as rash or negligent driving of the vehicle in view of the finding, challan by the police is fully proved.

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

The accident in question occurred on 22.3.2009 and on the same very day FIR was promptly lodged. It has also come on record that after the completion of the investigation, the challan under Section 173 Cr.P.C. stands already filed. The driver-respondent No.3 did not appear before the Tribunal, therefore, the Tribunal has rightly drawn an adverse inference against him. Moreover, the question of false implication of the offending vehicle in the present case is also ruled out from the statement of the appellant-owner Satbir, who appeared as RW4 and categorically stated that he did not lodge any complaint to any Authority with regard to false implication of the driver.

A perusal of the record reveals that the driving licence issued in the present case was effective from 10.12.1996 to 9.12.2016 which means that the licence was not valid to drive a transport vehicle. The provisions of Section 14 of Motor Vehicles Act, 1988 are as follows:

Section 14 in The Motor Vehicles Act, 1988

14. Currency of licences to drive motor vehicles.—

(1) A learner's licence issued under this Act shall, subject to the other provisions of this Act, be effective for a period of six months from the date of issue of the licence.

(2) A driving licence issued or renewed under this Act shall,—

(a) in the case of a licence to drive a transport vehicle, be effective for a period of three years: 1[***] 1[***]" 2[Provided that in the case of licence to drive a transport vehicle carrying goods of dangerous or hazardous nature be effective for a period of one year and renewal thereof shall be subject to the condition that the driver undergoes one day refresher course of the prescribed syllabus; and] 2 [Provided that in the case of licence to drive a transport vehicle carrying goods of dangerous or hazardous nature be effective for a period of one year and renewal thereof shall be subject to the condition that the driver undergoes one day refresher course of the prescribed syllabus; and]"

(b) in the case of any other licence,—

(i) if the person obtaining the licence, either originally or on renewal thereof, has not attained the age of 3[fifty years] on the date of issue or, as the case may be, renewal thereof,— 3[fifty years] on the date of issue or, as the case may be, renewal thereof,—"

(A) be effective for a period of twenty years from the date of such issue or renewal; or

(B) until the date on which such person attains the age of 3[fifty years], 3 [fifty years]," whichever is earlier; 4[(ii) if the person referred to in sub-clause (i), has attained the age of fifty years on the date of issue or as the case may be, renewal thereof, be effective, on payment of such fee as may be prescribed, for a period of five years from the date of such issue or renewal:] 1[(ii) if the person referred to in sub-clause (i), has attained the age of fifty years on the date of issue or as the case may be, renewal thereof, be effective, on payment of such fee as may be prescribed, for a period of five years from the date of such issue or renewal\:]" Provided that every driving licence shall, notwithstanding its expiry under this subsection continue to be effective for a period of thirty days from such expiry.

In the light of the above, it is held that since the licence had been issued for a period of 20 years, it was not meant for driving transport vehicles which is only issued/renewed for a period of three years at a time. The learned Tribunal has rightly relied upon a judgment in ***Oriental Insurance Co. Ltd. Vs. Angad Kol and others (2009) 11 SCC 356***. Since the licence held by the driver was not valid for driving the vehicle in question, therefore, the owner-appellant cannot escape from the liability of paying the compensation to the injured/claimant. The appellant is the owner whereas respondent No.3 is driver of the vehicle, therefore, this Court finds no infirmity with regard to the findings recorded by the Tribunal that the accident took place on account of rash or negligent driving of the driver and that he did not have the requisite licence at the time of accident. Therefore, the Tribunal has rightly fastened the liability to pay the compensation jointly and severally upon the appellant-owner and driver-respondent No.3. Thus, there is no illegality or perversity in the award passed by the Tribunal.

Accordingly the present appeal is dismissed.

12.2.2016 **(JITENDRA CHAUHAN)**
Meenu **JUDGE**