IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 7037 of 2011(O&M)
Date of decision : 05.01.2016

Oriental Insurance Company Ltd. .... Appellant

versus

Balwinder Singh and others .... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

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Present: Mr. Sanjeev Pabbi, Advocate for the appellant.

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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?

AJAY TEWARI, J. (Oral)

This appeal has been filed against the award dated 12.09.2011 passed by the Motor Accident Claims Tribunal, Kurukshetra whereby the claimant-respondents No.1 and 2 were awarded a sum of Rs. 4, 91,000/-with interest at the rate of 7½% p.a. as compensation holding all the respondents to pay the same jointly and severally.

Brief facts of the case are that On 21.6.2010 Harbans Kaur and her husband Balwinder Singh were going to their village Ghangheri on motor cycle bearing No. HR41B-2435 being driven by Balwinder Singh which met with an accident with a Maruti Omni car bearing No.HR23B-2597 being driven by Baljit Singh(respondent No.3 in this appeal) as a result of which they received multiple, grievous injuries on their bodies. The driver of the car fled from the spot. The injured were taken to hospital at Patiala where Harbans Kaur died as a result of the injuries sustained by her. The Tribunal assessed the compensation as stated above.

The contention of learned counsel appearing for the appellant-insurance company is that this was a case where it was proved that the licence of the driver was fake and, therefore, recovery rights ought to have been granted to the insurance company. In this connection the Tribunal has noticed that the insurance company placed on record a report prepared and submitted by some investigator along with an endorsement from the Licencing Authority to the effect that the licence in question was never granted from that office. However, neither any body from the Licencing Authority nor even the investigator appeared in the witness box to prove either his report or the report of the Licencing Authority . It was in these circumstances that the Tribunal held that the appellant-insurance company had not been able to substantiate its plea that the driving licence was fake and consequently refused to grant recovery rights. Had even the investigator appeared and testified in favour of his report and in favour of the report of the Licencing Authority and had been subjected to cross-examination it may have been held that these documents stood proved. In the absence thereof it cannot be held that the insurance company has discharged the onus to prove that the driving licence was a fake one. I see no reason to take a different view.

Consequently the appeal is dismissed.

Since the main case has been decided, the Civil Misc. Application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

January 05, 2016
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