

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

(1) **CM No.9500-CII-2014 in/and
FAO No.2919 of 2014 (O&M)
Date of decision : 24.05.2016**

Bajaj Allianz General Insurance Company Ltd.Appellant
Versus

Parminder Singh and others ...Respondents

(2) **CM No.9502-CII-2014 in/and
FAO No.2920 of 2014 (O&M)**

Bajaj Allianz General Insurance Company Ltd.Appellant
Versus

Amrik Singh and others ...Respondents

(3) **CM No.9504-CII-2014 in/and
FAO No.2921 of 2014 (O&M)**

Bajaj Allianz General Insurance Company Ltd.Appellant
Versus

Mahindero and others ...Respondents

(4) **CM No.9506-CII-2014 in/and
FAO No.2922 of 2014 (O&M)**

Bajaj Allianz General Insurance Company Ltd.Appellant
Versus

Kashmiri Lal and others ...Respondents

(5) CM No.9508-CII-2014 in/and
FAO No.2923 of 2014 (O&M)

Bajaj Allianz General Insurance Company Ltd.

.....Appellant

Versus

Kashmiri Lal and others

...Respondents

(6) CM No.9510-CII-2014 in/and
FAO No.2924 of 2014 (O&M)

Bajaj Allianz General Insurance Company Ltd.

.....Appellant

Versus

Amrik Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

- 1. Whether Reporters of the local papers may be allowed to see the judgment ? Yes*
- 2. To be referred to the Reporters or not ? Yes*
- 3. Whether the judgment should be reported in the Digest? Yes*

Present: Mr. Vishal Aggarwal, Advocate for
appellant-Insurance Company.

Respondents No.4 & 5 ex parte.

DARSHAN SINGH, J.

This judgment shall dispose of all the six appeals along with applications for additional evidence pending in each of the appeal, mentioned above, which have arisen out of two separate awards dated

22.03.2014, passed by learned Motor Accidents Claims Tribunal, Ambala (hereinafter called the 'Tribunal').

2. All the six appeals as well as the applications for additional evidence are being taken up together for disposal as the common question of law and facts are involved in all these appeals as all these appeals have arisen out of the same motor vehicular accident, which took place on 22.09.2010, though the learned Tribunal has decided the six claim petitions vide two separate awards passed on the same date *i.e.* 22.03.2014 in two sets of the claim petitions consisting three claim petitions, each.

3. These appeals have been preferred by Bajaj Allianz General Insurance Company Ltd. (respondent No.3 in the claim petition).

4. In all the appeals, the driver and owner of the vehicle bearing registration No.HR-58-9965 are arrayed as respondents at different serial numbers, so, for the sake of convenience, they are hereby referred as the driver and the owner only.

5. At the stage of issuance of notice of motion, the appeals filed by the appellant-Insurance Company were dismissed against claimants and notice of motion was issued only to the driver and owner of the vehicle.

6. Respondents-the driver and owner of the vehicle in question were proceeded against *ex parte* on completion of their service.

7. The Insurance Company has also filed application under Order 41 Rule 27 read with Section 151 of Code of Civil Procedure, 1908 for leading the additional evidence. In the application, it is pleaded that on the request of the appellant-Insurance Company the Tribunal has sent a

letter to the District Transport Officer/Licensing Authority (M.V.), Tuensang, Nagaland for submitting report regarding genuineness/fakeness of the driving licence of driver Amit Kumar. The letter sent to the Tribunal shows that the said licence was fake. The copy of the said letter addressed to the Tribunal is annexed as Annexure A-1. That document is necessary for adjudication of the present appeal. Hence, the application.

8. I have heard Mr. Vishal Aggarwal, Advocate, learned counsel for the applicant-appellant and meticulously examined the record of the case.

9. Mr. Vishal Aggarwal, Advocate, learned counsel for the applicant-appellant contended that the learned Tribunal vide order dated 14.10.2013, on the basis of an application moved by the applicant-Insurance Company, had issued the directions to the District Transport Officer/Licensing Authority (M.V.), Tuensang, Nagaland to submit the verification report of driving licence of driver Amit Kumar. He contended that without waiting for the reply/report of the Licensing Authority, the learned Tribunal has decided the claim petitions. Later on, the said report was received by the Tribunal on 26.03.2014, which shows that the licence relied upon by the driver and owner of the vehicle was fake. It was issued in the name of some other person. Thus, he contended that the production of the said letter in the additional evidence is essential for the just decision of the case. He further contended that as the licence of the driver was found fake, so the appellant-Insurance Company is entitled for the recovery rights.

10. I have duly considered the aforesaid contentions.

11. Firstly, I take up the application moved by the appellant-Insurance Company in all the six appeals for leading the additional evidence *i.e.* for production of the letter dated 10.03.2014 written by the District Transport Officer/Licensing Authority (M.V.), Tuensang, Nagaland to the learned Tribunal. The record of the case shows that the appellant-Insurance Company has moved an application for issuing direction to the District Transport Officer/Licensing Authority (M.V.), Tuensang, Nagaland to submit the verification report of the driving licence of the driver. On the basis of said application, the learned Tribunal passed the order dated 14.10.2013, vide which the said application was allowed. The District Transport Officer/Licensing Authority (M.V.), Tuensang, Nagaland was directed to give the requisite information. The letter to this effect was issued to the Licensing Authority for giving the necessary information. A copy of the letter was also given to the applicant-Insurance Company to verify the facts at his own level. The office copy of the letter sent to District Transport Officer/Licensing Authority (M.V.), Tuensang, Nagaland is available on record of MACT case No.55/2010. In response to that letter, the District Transport Officer/Licensing Authority (M.V.), Tuensang, Nagaland has sent the verification report vide letter dated 10.03.2014 directly to the learned Tribunal, which was received by the Tribunal on 26.03.2014. But by that time, all the six claim petitions were already decided by the learned Tribunal on 22.03.2014. Once, the learned Tribunal has issued directions to the District Transport Officer/Licensing Authority (M.V.), Tuensang, Nagaland to submit the report with respect to the genuineness/fakeness of the driving

licence of driver Amit Kumar, the learned Tribunal should have waited for the report, but the learned Tribunal has decided the claim petitions without waiting for the said report. The said report has a vital bearing on the issue regarding liability to pay the compensation. The said letter was not available when the learned Tribunal has decided the claim petitions. The said letter/report is required by this Court to enable it to pronounce the judgment with respect to the question of liability and for doing the substantial justice. So, the applications moved by the appellant-Insurance Company in all the appeals for leading the additional evidence to produce the report/letter dated 10.03.2014 with respect to verification of the driving licence No.18424/TV/T/2009 are hereby allowed. The original report is available on the record of MACT case No.58/2011. The same is taken on record as Ex.RX, which shall be read in evidence in all the claim petitions.

12. Learned counsel for the driver and owner before the learned Tribunal has tendered in evidence the copy of the driving licence as Ex.R1 vide statement dated 10.03.2014 recorded in MACT case No.55/2010. Copy of the driving licence Ex.R1 shows that the said driving licence was bearing No.18424/TV/T/2009 issued by the District Transport Officer/Licensing Authority (M.V.), Tuensang, Nagaland on 17.02.2009 and valid upto 16.02.2012.

13. As already mentioned, on the basis of the application moved by the appellant-Insurance Company, the learned Tribunal has issued the direction vide order dated 14.10.2013 to the District Transport Officer/Licensing Authority (M.V.), Tuensang, Nagaland to submit the

verification report with respect to the driving licence in question. In response to the direction given by the Court, the District Transport Officer/Licensing Authority (M.V.), Tuensang, Nagaland has directly written the letter dated 10.03.2014 to the Tribunal, wherein it has been categorically mentioned that the driving licence No.18424/TV/T/2009 has been issued from his office on 30.03.2009 under the name of Shri Tokaho Chopy, son of Yazhevi Chopy under Natsami village of Kiphire District, Nagaland. The above said report establishes that driving licence No.18424/TV/T/2009 was never issued in favour of driver Amit Kumar by District Transport Officer/Licensing Authority (M.V.), Tuensang, Nagaland on 17.02.2009. So, the driving licence relied by the driver and owner, the copy of which is Ex.R1 available on the file of MACT Case No.55/2010, is fake and fictitious. The same has never been issued by the District Transport Officer/Licensing Authority (M.V.), Tuensang, Nagaland.

14. Now the question arises as to whether the letter dated 10.03.2014 Ex.RX received by the learned Tribunal can be taken into consideration or not. As already mentioned, the learned Tribunal vide order dated 14.10.2013 has issued the directions to the District Transport Officer/Licensing Authority (M.V.), Tuensang, Nagaland to furnish the verification report with respect to the driving licence in question. In compliance of the said direction, the District Transport Officer/Licensing Authority (M.V.), Tuensang, Nagaland has directly written the letter dated 10.03.2014 to the Tribunal, which was received by the Tribunal on 26.03.2014. Even the postal envelop addressed to the Court is available on

record. So, the letter dated 10.03.2014 has been received directly by the learned Tribunal through official channel in compliance of the directions issued by it. There is no question to doubt the genuineness of this letter and the same can certainly be taken into consideration. However, the position would have been different if such letter/report has been procured by any party to the claim petition at his own level and produced before the Tribunal. In that case, the examination of the official of the office of the Licensing Authority along with relevant record, which issued the report is necessary to prove and ascertain the genuineness of the report. But the letter dated 10.03.2014 is entirely on different footing, as the same has been directly received by the Tribunal in response to the direction issued by it. So, there is no legal impediment to consider the letter dated 10.03.2014 with respect to the validity of the licence of driver Amit Kumar produced on record.

15. As already mentioned, this letter clearly shows that the said driving licence was never issued by the office of the District Transport Officer/Licensing Authority (M.V.), Tuensang, Nagaland in favour of respondent Amit Kumar the driver of the vehicle. Thus, as the driver of the vehicle has no valid licence to drive the vehicle in question bearing registration No.HR-58-9965 on the date of accident. So, the appellant-Insurance Company is certainly entitled for the recovery rights.

16. Thus, keeping in view my aforesaid discussion, all the present appeals are hereby partly allowed. The findings recorded by the learned Tribunal with respect to the liability to pay the awarded amount are

hereby modified to this extent that at the first instance, the appellant-Insurance Company will pay the awarded amount, if not already paid, to the claimants and then to recover the said amount from the insured by executing these very awards.

17. The copy of this judgment be placed on the record all the connected appeals.

24.05.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**