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

**F.A.O No. 3196 of 2014(O&M)
Date of decision :25.02.2016**

United India Insurance Company Limited

...... Appellant

Versus

Raj Singh and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.D.R.Bansal, Advocate
for the appellants.

None for respondent no.3.

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DARSHAN SINGH,J

The present appeal has been preferred by respondent no.3-United India Insurance Company Limited against the award dated 26.05.2012 passed by the learned Motor Accident Claims Tribunal (for short 'Tribunal'), Sonipat, vide which the claimant-respondent no.1 has been awarded compensation to the tune of Rs. 96,400/- on account of the injuries suffered by him in the motor vehicular accident, which took place on 08.10.2008.

2. The present appeal has been preferred by the appellant-Insurance Company to assail the liability fastened upon it.

3. Learned counsel for the appellant contended that the cover

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note produced by respondent no.3, the owner of vehicle was not legible. So, it was not proved that the vehicle was insured with the appellant-Insurance Company. The appellant-Insurance Company has even moved the applications for directing the insured to produce the original insurance policy/cover note. But, inspite of that he has not produced the original insurance documents. Thus, the insurance company was not liable for payment of the amount of the compensation. He further contended that the driving license of respondent no.2-Jaipal @ Pappa was found to be fake vide verification report Ex.R-1, which proved the violation of the terms and conditions of the insurance company.

4. I have duly considered the aforesaid contentions. But, the same are without any merit.

5. From the perusal of the photocopy of the record of the learned Tribunal, it comes out that the copy of the cover note is available on record. This cover note bears no. 368268, the registration number of the vehicle, its make and model are clearly mentioned in the cover note. This cover note was issued on 13.09.2008 and was valid up to 12.09.2009. Thus, it cannot be stated that the cover note produced by the insured was not legible. Rather, all the particulars of the cover note are clear. Thereafter, it was the function of the insurance company to find out from its record about the insurance policy. So, appellant-Insurance Company has not been able to establish that vehicle no. HR-30-1097 was not insured with it on the date of accident.

6. The appellant-Insurance Company has also not been able to establish that respondent no.2-Jaipal @ Pappa was not holding the valid

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and effective driving license on the date of accident to drive the jeep. The verification report Ex.R-1 is not *per se admissible*. Appellant-Insurance Company has not examined any official of the office of the concerned licensing authority with the relevant record to prove the verification report Ex.R-1. In the absence of that evidence, the report Ex.R-1 cannot be relied upon. To support this view reference can be made to cases **National Insurance Company Ltd. Vs. Santosh and others 1999 ACJ 1262**, **New India Assurance Company Ltd. Vs. Jyoti Lal Mahato and another 2004 ACJ 1935** and **Bajaj General Insurance Company Ltd. Vs. Mahesh Kumar 2010(2) RCR (Civil) 785.**

7. Thus, the appellant-Insurance Company has failed to establish that the driving license of respondent no.2-Jaipal @ Pappa was fake and the insured has violated the terms and conditions of the Insurance Policy. Therefore, no fault can be found in the findings recorded by the learned Tribunal in fastening the liability on the appellant-Insurance Company.

8. Consequently, the present appeal being without any merit is hereby dismissed.

February 25, 2016 **(DARSHAN SINGH)**
s.khan **JUDGE**

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