

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

**FAO No.4678 of 2013 (O&M).**

**Date of Decision: 06.04.2016.**

National Insurance Company Limited

....Appellant.

**VERSUS**

Bala Devi and others

....Respondents.

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**CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.**

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**Present:** Ms. Manjari Nehru Kaul, Advocate for the appellant.

Ms. Richa Mittal, Advocate for

Mr. I.S. Sharma, Advocate for respondents No.1 to 5.

Mr. S.S. Kamboj, Advocate for respondent No.6.

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**SNEH PRASHAR, J.**

This appeal had been preferred by the insurance company assailing the award dated 30.07.2013 passed by Motor Accident Claims Tribunal, Ambala (for short, “the Tribunal”) by virtue of which the petition claiming compensation under Section 166 of the Motor Vehicles Act, 1988 (for short, “the Act of 1988”) filed by respondents No.1 to 5-claimants was partly allowed and the appellant-insurer of truck bearing registration No.HR-37B-7975 (hereinafter referred to as the “offending truck”), was held liable for payment of the compensation.

The submissions made by learned counsel for the parties have been heard and record perused.

The facts which have not been disputed are that on 21.01.2013 Ramesh Kumar (husband of respondent No.1 and father of respondents No.2 to 5) was going from Railway Station Ambala Cantonment towards Indira Chowk paddling his rickshaw when the offending truck, being driven rashly, negligently and in a high speed, came from his backside and struck into the rear portion of the rickshaw. Due to the impact, Ramesh Kumar fell on the road and suffered grievous and fatal injuries. A First Information Report No.36 dated 22.01.2013 under Sections 279 and 304-A of the Indian Penal Code was registered against Jora Singh (respondent No.6) driver of the offending truck. Partly allowing the claim petition filed under Section 166 of the Act of 1988 claiming compensation from the driver, owner and insurer of the offending truck, who were impleaded as respondents in the petition, learned Tribunal awarded compensation to the tune of Rs.6,07,000/- payable alongwith interest at the rate of 7.5% per annum by the respondents jointly and severally.

The petition was contested by the appellant/respondent-insurance company on the ground that the offending truck was being driven in violation of the terms and conditions of the insurance policy viz a viz that the driver was not holding a valid and effective driving licence. The owner-insured had not obtained a valid route permit and fitness certificate. All other defences available to the insurance company under the provisions of the Act of 1988 were also raised. However, none of the objections prevailed with learned Tribunal and the appellant was held liable for payment of compensation.

Learned counsel for the appellant argued that by adducing the required evidence the appellant had succeeded in proving that the original driving licence held by Jora Singh (respondent No.6) was a forged and fabricated document. RW2 Himmat Singh, Junior Assistant, District Transport Office, Fatehgarh Sahib, testified that the driving licence Ex.R4 had been issued in the name of 'Jora Singh son of Vichitar Singh' and the date of birth of the licence holder had been mentioned as 10.02.1958. His statement proved that the original licence was not issued in the name of 'Jora Singh son of Bachan Singh' (respondent). The entry showing renewal of the driving licence had different particulars. In the renewal, the name of the licence holder was mentioned as 'Jora Singh son of Bachan Singh' and his date of birth was mentioned as '05.03.1952'. Learned counsel contended that the renewal of the licence may have been validly done in favour of respondent-Jora Singh but when the original was a fake document, the renewal was incompetent to legally sanctify the same. To support her argument, learned counsel relied upon *New India Assurance Co., Shimla vs. Kamla and others, AIR 2001 (Supreme Court) 1419(1)* and *New India Assurance Co. Ltd. vs. Narender Singh and others, 2010 ACJ 2872.*

The contentious issue in the instant appeal is not that if a fake driving licence happens to be renewed by the statutory authority, the fakeness of the original document does not get legally sanctified. Rather, the issue which needs determination is whether the licence Ex.R4 issued in the name of respondent-Jora Singh, shown in the record of the licensing authority to be originally issued to 'Jora Singh son of Vichitar Singh' having

date of birth as '10.02.1958' was issued to respondent-Jora Singh or in favour of some other person. It was not the deposition of RW2 Himmat Singh that respondent-Jora Singh was not the person in whose favour the original licence No.2385/1994 was issued. He produced the copy of the relevant entry existing in his record as Ex.R11 and his report relating to verification of the licence Ex.R12, according to which the driving licence Ex.R4 in the name of Jora Singh was renewed and was valid for the period 11.02.2011 to 10.02.2014. The first renewal of the licence was vide licence no.4637/R/ 1998. PW2 stated that subsequently the licence was renewed vide licence no.3275/R/C/2008 and ultimately it was renewed vide licence no.PV23-886/10-11 for the period 11.02.2011 to 10.02.2014.

Indeed, RW2 Himmat Singh, Junior Assistant admitted that in the original licence father's name of the licence holder was mentioned as 'Vichitar Singh' and his date of birth as '10.02.1958', but he stated that in the renewed licence the father's name was mentioned as 'Bachan Singh' and the date of birth of the licence holder was written as '05.03.1952'. During cross-examination, RW2 explained that there being a possibility of clerical mistake in mentioning the name of father of Jora Singh in the original licence cannot be ruled out. Though he stated that he cannot say whether the mistake regarding the date of birth in the original licence and the renewed licence was also a clerical mistake or not but when there could be a clerical mistake in mentioning the father's name of the licence holder in the original licence, it could also be possible that the date of birth was also wrongly mentioned as a result of clerical mistake. The application form submitted by

respondent-Jora Singh when the original licence was issued was not traceable and was not produced by the witness. At the same time, he specifically stated that the driving licence Ex.R4 is not a fake licence and had been genuinely issued by his office. The relevant extract of the register of the licensing authority vide which the licence was renewed for the period 09.03.1994 to 09.02.1998 is Ex.R11. In the said entry father's name of Jora Singh is mentioned as 'Vichitar Singh' and his date of birth as '10.02.1958'. At the same time, the entry bears the photograph of the licence holder and it is not the allegation of the insurance company that the photograph pasted against the entry Ex.R11 is not of respondent-Jora Singh. This shows that there was clerical mistake in writing father's name as well as date of birth of the licence holder which were corrected while subsequently renewing the licence. The original licence validly issued by the licensing authority was in favour of respondent-Jora Singh.

Thus, there being no merit in the appeal, it is hereby dismissed.

**(SNEH PRASHAR)**  
**JUDGE**

**06.04.2016.**

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