

FAO No. 5099 of 2013(O&M)

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In the High Court of Punjab and Haryana at Chandigarh

FAO No. 5099 of 2013(O&M)

Date of Decision: 26.10.2016

M/s Associated Biotech Firm and another

---Appellants

versus

Shero and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Jasbir Rattan, Advocate
for the appellants**

None for respondents No. 1 to 3

**Mr. Abhinandan Pandhi, Advocate
for Ms. Manjari Nehru Kaul, Advocate
for respondent No. 4**

Rekha Mittal, J.

The present appeal has been directed against award dated 13.5.2013 passed by the Motor Accidents Claims Tribunal, Panchkula (in short "the Tribunal") whereby compensation has been awarded in favour of Shero and others in regard to death of Kanwar Singh in a motor vehicular accident that took place on 24.12.2011.

The present appeal has been preferred by the owner and driver of the alleged offending vehicle Bolero car bearing No. HP-12D-1101 to assail the findings that driver of the offending vehicle was not holding a valid driving licence, therefore, the insurance company is entitled to recover the amount of compensation after discharging liability qua the claimants.

Counsel for the appellants would contend that the appellants filed an application under Order 41 Rule 27 read with Section 151 of the Civil Procedure Code for permission to place on record certified copy of driving licence of Pargat Singh by way of additional evidence. It is further submitted that the driving licence was placed on record before the Tribunal but the same was rejected on the ground that it was not clear as to which type of vehicle(s) Pargat Singh was authorised to drive. It is further argued that as Pargat Singh had a valid licence to drive Bolero car involved in the occurrence, award passed by the Tribunal allowing recovery rights in favour of the insurance company is liable to be modified.

Counsel for the insurance company has submitted that the insurance company made necessary verification of driving licence of Pargat Singh, the licence has been found to be genuine as well as Pargat Singh

being competent to drive the vehicle in question.

I have heard counsel for the parties, perused the records particularly the award passed by the Tribunal.

Keeping in view the fact that driving licence placed on record by way of additional evidence is found to be genuine and entitlement of Pargat Singh to drive the vehicle in question, findings recorded by the learned Tribunal giving recovery rights in favour of the insurance company and that driver of the offending vehicle was not holding a valid driving licence and therefore, the insured is guilty of committing breach of terms and conditions of the contract of insurance cannot be allowed to sustain and accordingly set aside.

In view of the above, the appeal is allowed and the award passed by the Tribunal is modified that the insurance company shall be jointly and severally liable to pay compensation without any right of recovery against the owner and driver of the offending vehicle.

(Rekha Mittal)
Judge

26.10.2016

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No