

FAO No. 6591 of 2016(O&M)

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In the High Court of Punjab and Haryana at Chandigarh

FAO No. 6591 of 2016(O&M)

Date of Decision: 19.12.2016

New India Assurance Company Limited

---Appellant

versus

Sandeep and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Ms. Vandana Malhotra, Advocate
for the appellant**

Rekha Mittal, J.

The present appeal directs challenge against award dated 27.5.2016 passed by the Motor Accidents Claims Tribunal, Jhajjar (in short “the Tribunal”) whereby compensation has been awarded in respect of injuries sustained by Sandeep son of Sukhbir Singh in a motor vehicular accident that took place on 19.4.2014.

The sole submission made by counsel for the appellant is that as driver of the offending vehicle bearing No. HR-55H-4221 was not holding a valid driving licence at the time of occurrence, the insurance company is liable to be exonerated of its liability or in the alternative is entitled to recovery rights against the insured. It has been argued that as per verification report Ex. R-4, the driving licence produced on record is in the name of Rajiv Kumar whereas in the application for compensation, name of the driver has been given as Rajveer Singh son of Nar Singh.

I have heard counsel for the appellant, perused the paper book particularly the award passed by the Tribunal.

Indisputably, the report obtained by the insurance company with regard to verification of the driving licence has not been proved in accordance with law. The insurance company did not examine a witness from the concerned licencing authority in order to provide an opportunity to the other side to challenge correctness of the report on the basis of record to be produced by the concerned witness. As per the settled position in law, it is for the insurance company to discharge the onus that the insured is guilty of violating the terms and conditions of the insurance policy constituting a defence in favour of the insurer. Under the circumstances, the

appellant cannot derive any benefit to its contention from the report Ex. R-

4. In this view of the matter, I do not find any error much less illegality in the findings of the Tribunal warranting intervention.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. As the appeal has been decided on merits, application for condonation of delay is of academic relevance only .

(Rekha Mittal)
Judge

19.12.2016

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No