

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

1. FAO No. 5984 of 2015 (O&M)
Date of Decision : 22.01.2016

Reliance General Insurance Co. Ltd.Appellant

Versus

Sunder and othersRespondents

2. FAO No. 7844 of 2015 (O&M)

Reliance General Insurance Co. Ltd.Appellant

Versus

Sandeep and anotherRespondents

3. FAO No. 7845 of 2015 (O&M)

Reliance General Insurance Co. Ltd.Appellant

Versus

Raj Kumar and anotherRespondents

4. FAO No. 7846 of 2015 (O&M)

Reliance General Insurance Co. Ltd.Appellant

Versus

Ram Kumari and anotherRespondents

5. FAO No. 7847 of 2015 (O&M)

Reliance General Insurance Co. Ltd.Appellant

Versus

Kamla and othersRespondents

6. FAO No. 7848 of 2015 (O&M)

Reliance General Insurance Co. Ltd.Appellant

Versus

Kamla and othersRespondents

7. FAO No. 7849 of 2015 (O&M)

Reliance General Insurance Co. Ltd.Appellant

Versus

Maina and anotherRespondents

8. FAO No. 7850 of 2015 (O&M)

Reliance General Insurance Co. Ltd.Appellant

Versus

Kavita and anotherRespondents

9. FAO No. 7851 of 2015 (O&M)

Reliance General Insurance Co. Ltd.Appellant

Versus

Ashu and anotherRespondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sanjeev Kodan, Advocate
for the appellant-Insurance Company.

Surinder Gupta, J.

The appeals mentioned in the caption above have been filed by Reliance General Insurance Co. Ltd. against award dated 17.07.2015 passed by Motor Accident Claims Tribunal, Hisar (later referred to as 'the Tribunal') allowing the claim petitions relating to accident of Tata Sumo bearing registration No. DL-3CF-3676 and Combine bearing registration No. PB-31-G-6058 (later referred to as 'the offending vehicle').

2. On appraisal of evidence, the Tribunal concluded that the accident had taken place due to rash and negligent driving of Combine by its driver (however, due to some error the vehicle involved in the accident has been mentioned in award as motorcycle driven by Azad Singh-respondent no. 1).

3. Facts of the case are not being discussed in detail as the only point raised during course of argument is legality and validity of driving licence of respondent no. 5 on the date of accident.

4. Learned counsel for the appellant-Insurance Company has argued that the Tribunal has gone astray while recording finding regarding the legality and validity of driving licence of respondent no. 5 despite evidence on record that it was not a valid driving licence. He has referred to the report sent by District Transport Officer, Zunheboto, Nagaland which states that licence in question was not renewed by his office on 04.03.2011. The above report was called by the Court under order dated 10.12.2014, as such, the Tribunal has committed grave error by not relying on the same.

5. The Tribunal while discussing the validity of driving licence of respondent no. 5 has observed in para 64 as follows:-

“64. From perusal of driving licence Ex. RD and letter Ex. RX, questionnaire Ex. RF, it is apparent on record that District Transport Officer has issued certificate regarding genuineness of driving licence Ex. RC of respondent no. 1. Letter dated 27.01.2015 relied by respondent no. 2 is to the contrary. Be that as it may in view of letter Ex. RX it is sufficient to hold that on the date of accident respondent no. 1 had a valid and effective driving licence. Accordingly issue no. 4 is decided in favour of respondent no. 1 and against respondent no. 2. ”

6. The question which arises for consideration is as to whether report dated 27.01.2015 sent by the office of District

Transport Officer, Zunheboto, Nagaland is sufficient to reach the conclusion that driving licence of respondent no. 5 was not valid.

7. The Tribunal vide order dated 10.12.2014 has called for the report of District Transport Officer, Zunheboto, Nagaland with the observation as follows:-

“After having heard the rival contentions advanced by ld. counsel for the parties and going through the instant application, its reply and case file minutely, this Court is of the view that for the proper adjudication of the matter in dispute Licensing Authority (DTO), RTO, Zunheboto, Nagaland should be directed to give verification of driving licence no. FR/22167/Z/11 dated 14.03.2011 issued in the name of respondent no. 1 Gurvinder Singh son of Avtar Singh resident of Ammupur Tehsil & District Karnal. This Court orders accordingly. The authorized person of applicant-respondent no. 2 shall take certified copy of this order and shall submit the same before the aforesaid licensing authority and the licensing authority shall make the compliance of this order. The instant application is allowed accordingly.”

8. The report sent by the concerned authority reads as follows:-

“In response to your court letter No. 210 MACT dated 17.12.2014, on the subject cited above, I have the honour to inform you that the signature allegedly appended in the licence belongs to previous licensing authority who worked here until her transfer to another office on 30.10.2010. As is evident from the photocopy of the driving licence showing validity upto 03.03.2014 (sic 2014), which is not possible since the licence renewal date is supposed to be 04.03.2011 and during the same period the Licensing Authority whose

signature is allegedly appended in the licence was no more working in the office of the undersigned. Hence, the question of licence being renewed from this office on 04.03.2011 does not arise”

9. As per order sent to the District Transport Officer, Zunheboto, Nagaland, he had to give verification of driving licence no. FR-22167/Z/11 dated 14.03.2011. Firstly, in the report dated 27.01.2014, there is no reference to the above licence. Secondly, there is nothing in the report that record of the office was checked and verified to find as to whether licence no. FR/22167/Z/11 dated 14.03.2011 was issued and there exists any entry in the record. Thirdly, the reporting authority has made some vague type of report stating that the officer whose signatures appear on the licence was transferred to another office on 30.10.2010. A question was also raised about the validity of licence upto 03.03.3014 (sic 2014). It is apparent from perusal of the report that it is based on presumption and surmises. The authority could certainly check its record and give a definite report that the licence was not issued on 14.03.2011.

10. On the other hand, respondent no. 5 had proved on record the information he got under the Right to Information Act, 2005 (Ex. RX and Ex. RD) which while referring to driving licence No. 22167/FR/Z/2011 issued in the name of respondent no. 5, categorically state that it was found genuine as per office record.

11. From the above discussion, I am of the considered opinion that the Tribunal has rightly ignored the report dated 27.01.2015 while reaching the conclusion that Insurance Company failed to prove that driving licence of respondent no. 5

was not valid on the date of accident.

12. No other argument has been advanced by learned counsel for the appellant.

13. In view of my above discussion, there is no merit in the appeals filed by the Insurance Company and the same are dismissed in limine.

A copy of this judgment be placed in the connected files.

January 22, 2016
jk

(SURINDER GUPTA)
JUDGE