

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

**FAO-8708-2015 (O&M)
Date of decision: 07.04.2016**

Mukesh Kumar

...Appellant

Versus

Azad and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Sachin Mittal, Advocate,
for the appellant.

JITENDRA CHAUHAN, J.

The instant appeal has been preferred by the appellant-owner, challenging the impugned Award dated 22.02.2014, passed by learned Motor Accidents Claims Tribunal, Gurgaon, (for short, 'the Tribunal').

The learned counsel for the appellant contends that the learned Tribunal erred in absolving the respondent-Insurance Company on the ground that the driver of the offending vehicle was not holding a valid driving licence at the time of the accident. It is contended that the driver of the offending vehicle was, in fact, holding a valid and effective driving licence at the time of the accident but the same could not be produced before the learned

Tribunal. An application under Order 41 Rule 27 read with Section 151 of the Civil Procedure Code has been filed along with the present appeal, to produce copy of the driving licence held by respondent No.1, the driver, Azad son of Hari Om.

I have heard learned counsel for the appellant and have carefully gone through the paper book.

There is an inordinate delay of 521 days in filing the present appeal, which has not been satisfactorily explained. Further, there is delay of 15 days in re-filing the appeal. Even otherwise, this court has re-scanned the case file and does not find any merit therein.

The mishap in question took place on 24.11.2012 and the claim petition was decided by the learned Tribunal on 22.02.2014. However, no driving licence was brought on record to prove that the driver was holding a valid and effective driving licence at the time of the accident. The appellant while appearing in the witness box as RW1, also did not furnish the particulars of the driving licence allegedly held by respondent No.1. In this way, the respondent-Insurance Company was also denied the opportunity to verify the driving licence. No plausible explanation has come forth as to why the driving licence, which has been sought to be produced on record by way of additional evidence,

was withheld. Furthermore, vide order dated 06.01.2016, this Court directed the appellant to place on record the supporting documents filed along with the application for issuance of driving licence by the respondent-driver. The learned counsel states that he is unable to furnish the requisite documents.

In these circumstances, this Court is of the considered opinion that in the absence of any driving licence, the finding recorded by the learned Tribunal with regard to the liability, is correct and does not call for any interference.

In view of the above, the present appeal and the accompanying miscellaneous applications are hereby dismissed, in limine.

The statutory amount deposited by the appellant be placed at the disposal of the Tribunal for disbursement.

07.04.2016

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**(JITENDRA CHAUHAN)
JUDGE**