

Sanjay and another

.....Applicants/Appellants

Versus

Santosh Devi and others

...Respondents

Present: Mr. Sanjay Mittal, Advocate
for the applicants-appellants.

Mr. Sandeep Yadav, Advocate
for respondents no.1 & 2.

Mr. R.K. Bashamboo, Advocate
for respondent no.3-Insurance Company.

This is a petition seeking recall/review of the order dated
04.12.2014, passed in FAO No.2063 of 2014.

Noticing the few facts, an accident took place, regarding
which a claim petition was filed and was decided on 07.12.2012 by the
Motor Accidents Claim Tribunal, Narnaul. A compensation of
Rs.1,70,000/- was allowed which was to be paid by respondents no.1
and 2 i.e. the owner and driver of the vehicle, whereas the insurance
company was exonerated.

Dis-satisfied with the award, the claimants filed an appeal
seeking enhancement while the driver and owner filed a separate
appeal seeking their discharge. Both the appeals were decided on
04.12.2014. The FAO filed by the owner and driver was dismissed
while the appeal filed by the claimants was partly allowed.

The owner and driver have filed this application seeking
review/recall of the order dated 04.12.2014 and according to them
there was an error apparent on the face of the record and this error

came to their notice later. The applicants have submitted that the Amendment in the Motor Vehicle Act was made in March, 2001 and a finding was given that the driving license required special authorization to drive a transport vehicle but the licence had been issued in 1997 and the amendment was made in March, 2001 and the amendment was prospective in operation, therefore, there was a mistake of fact when it was noted that the licence was granted after the amendment and since there was a mistake of law and fact, therefore, the fate of the case would change and this mistake was liable to be corrected.

The application was filed belatedly. The delay was condoned.

No reply was filed.

I have heard both the sides.

Counsel for the petitioner contended that the driving licence was granted in 1997 and was valid up to October, 2011 and the amendment was made in March, 2001 but para no.10 notices a wrong fact that the licence was granted to the driver after the said amendment which is not correct and there is no dispute that the licence was granted in 1997 and this fact was also noted by the Motor Accidents Claims Tribunal, though the validity date is wrongly noted as October 2016 which was in fact 2011 and since the amendment was not retrospective, therefore, no endorsement from the Transport Authority was required and the insurance company should have been directed to pay the compensation.

The submission on the other hand was that finding was recorded on the basis of law and based on the facts and if the

appellants wanted to challenge the same, it could only be in a higher Court and it is not the error which can be corrected as the scope of the review/recall is limited.

So far as the challenge is made to the finding with respect to the driving licence, it can only be challenged in appeal/revision. So far as the factual aspect is concerned, the licence was granted not after the amendment but it was in 1997. There was no endorsement even after 2001. Only correction that can be made is in para no.10 that driving licence was issued in 1997. The application is disposed of thus.

This order be made part of the judgment dated 04.12.2014.

04.03.2016
sunil

**(ANITA CHAUDHRY)
JUDGE**