

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

FAO-610-1993

Date of decision: 15.09.2017

Amritsar Transport Company Pvt. Ltd.

.... Appellant

Versus

Kartar Kaur and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Deepak Suri, Advocate
for the appellant.

None for the respondents.

Avneesh Jhingan, J.

Learned counsel for the appellant states that this was the bunch of four cases i.e FAO No.608 of 1993, FAO No.609 of 1993, CR No.815 of 1993 and FAO No.610 of 1993. All these four cases were arising out of the same award. Three cases have been disposed of by this Court vide order dated 18.02.2014. The order is reproduced as under :-

“ 1. The appeals and the revision by owner are on an issue of liability. The tribunal has rejected the copy of the driving license produced by the owner to be insufficient on proof that it was not genuine even when the insurer remained ex-parte. I find the reasoning of the Tribunal to be erroneous, for, the burden of proof of establishing the violation of

terms of policy is always on the insurer. If the driver had remained ex-parte then there could be no presumption that copy of the license produced by the owner was not genuine. The liability cast on the insured was erroneous and the insurer is bound to indemnify the insured for the entire amount as awarded by the tribunal.

2. The senior counsel states that the owner has satisfied the portion of the award. As far as the claimant is concerned the unrecovered portion shall be claimable against the insurer and as far as appellant is concerned he shall have a right of recovery of the amount paid not against the claimant but against the insurer in execution petition.

3. The two appeals and a revision are allowed to the extent of providing for a right of full indemnity for the owner. ”

In view of the above, the present appeal is disposed of in the same terms.

(AVNEESH JHINGAN)
JUDGE

15.09.2017

anju

Note:

1. Whether the order is speaking/reasoned: Yes

2. Whether the order is reportable : No