

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

***FAO No. 2207 of 1994
Decided on: March 27, 2017***

NEW INDIA ASSURANCE CO. LTD.

.....APPELLANT

VERSUS

RAM PIARI & ORS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Neeraj Khanna, Advocate
for the appellant.

None for the respondents.

JASPAL SINGH, J (ORAL)

By virtue of instant appeal, appellant has challenged the award dated June 02, 1994 passed by Motor Accident Claims Tribunal, Hoshiarpur in MACT Case No. 49 of 04.08.1992 whereby, the appellant was directed to pay the compensation to the tune of ₹1,00,000/- alongwith interest @12% per annum from the date of filing of petition till its realisation. Recovery rights have not been given to the insurance company by learned tribunal simply on the ground that it has failed to prove that the driving licence held by respondent NO.4-Rattan Lal is fake or forge one.

A close scrutiny of the impugned award transpires that recovery rights of amount in question from the owner and driver has been declined on the ground that verification report which is on record as Mark 'A' has not proved on record in accordance with the provisions of Evidence Act or that there is some

contradiction in the licence number mentioned in the report with that of licence number appearing in driving licence Ex.R1. It is evident from the record(s) available that insurance company moved an application for summoning the clerk of DTO/Licensing Authority, Jalandhar to prove the licence as well as verification report. Despite the fact that the said clerk was duly served but he did not appear in the witness box. The learned tribunal, instead of issuing warrants to secure his presence for his examination as witness, closed the evidence of the insurance company by order, which is not justifiable and violative of the principle of "*Audi Alteram Partem*".

In fact, it was obligatory upon the tribunal to have secured the presence of said witness by adopting coercive methods and to examine, for imparting justice to the parties instead of proceeding to close the evidence or dispose of the petition. On this score alone, impugned award is not sustainable in the eyes of law.

In the light of what has been discussed above, instant appeal is allowed and learned Tribunal is directed to secure the presence of Clerk of DTO, Jalandhar and after examining him in respect of licence Ex.R1 as well as verification report March 'A' then to dispose of the petition in accordance with law.

MARCH 27, 2017
sham

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned ***Yes/No***
Whether reportable ***Yes/No***