

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

FAO No.1160 of 1995 (O&M)

Date of Decision: 04.07.2017

Gurmukh Singh and another

..Appellants

Vs.

Balvinder Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Varendra Singh Punia, Advocate
for the appellants.

Mr. R. K. Bashamboo, Advocate,
for respondent no.6.

Amol Rattan Singh, J.

This is an appeal of both the respondents in a claim petition filed by respondents no.1 to 5 herein before the learned Motor Accident Claims Tribunal, Kurukshetra, being owner and driver respectively of the vehicle involved in the accident.

The appeal has been filed essentially on the ground that the respondent insurance company (respondent no.6-United India Insurance Company Limited), has been erroneously absolved of its liability to indemnify appellant no.1 herein, in respect of the compensation awarded to respondents no.1 to 5 by the learned Tribunal.

The insurance company, though is not seen to be a respondent in the memo of parties before the Tribunal, but was obviously so impleaded, as even its written statement is referred to in the Award. It was absolved of its liability to indemnify appellant no.1, as the driving licence stated to have been held by him was found to be a fake one, with the driving licence of that

number (225 issued on 23.04.1992), having been actually issued to one Jagdish Raj by the licensing authority, Gurdaspur.

The contention of the appellant on the other hand is that the appellant was actually hold a valid driving licence issued by the Licensing Authority, Amritsar, and to prove that licence, an application under Order 41 Rule 27 CPC has also been filed alongwith this appeal.

2. Other than the aforesaid grounds, the finding of the Tribunal on the issue of negligence has also been assailed in this appeal, as has the application of a multiplier of 25 by the Tribunal, to the loss of annual income that respondents no.1 to 5 have incurred due to the death of Gurdev Singh, husband of respondent no.1, father of respondents no.2 to 4 and son of respondent no.5.

The interest @ 15% per annum awarded by the Tribunal, on the principal compensation amount, has also been assailed.

Lastly, it is also contended that though the accident took place on 24.10.1993, even the amended provisions of the Motor Vehicles Act, 1988, have been applied and therefore, actually Rs.1,55,000/- at most could have been awarded to the respondents, (even if the deceased himself is not held responsible in causing the accident).

3. As per the claim petition filed by respondents no.1 to 5, Gurdev Singh was going to Pipli from village Sharifgarh, in a new three-wheeler, alongwith one Gurmail Singh, on 24.10.1993. At about 4:15 pm, when they reached in the area of village Khanpur Kalan, on the G.T. Road, a truck bearing registration no.PBW-5197, driven by appellant no.2 herein, Zuzar Singh, allegedly in a rash and negligent manner, came from the side of Pipli and struck against the three-wheeler, as a result of which the occupants

thereof received injuries, which in the case of Gurdev Singh unfortunately proved to be fatal.

Consequently, the claim petition under Sections 166, 140/141 of the Motor Vehicles Act, 1988, was filed, seeking a compensation of Rs.10,00,000/-, in addition to a sum of Rs.25,000/- “under the no fault liability clause”.

4. Upon notice having been issued, the present appellants filed a joint written statement admitting the accident in question but alleging therein that it took place due to the careless and negligent driving of the deceased himself, with the truck being driven by appellant no.2 at a normal speed on the left side of the road. It was further alleged in the written statement that a tractor-trolley had come from the opposite direction and the deceased, who was driving the three-wheeler, tried to overtake the tractor-trolley without observing traffic rules and in that process, the right front side of the truck hit the three-wheeler.

It was further contended that actually, on humanitarian grounds, appellant no.2 herein (respondent no.1 in claim petition), stopped the truck and also stopped another vehicle to carry the injured to the hospital and on the way even went to the police station to lodge a report. However, the police detained him in the police station and wrongly registered a case of careless and negligent driving against him.

5. The respondent-insurance company filed a separate written statement, denying the accident for want of knowledge and in the alternative, pleaded that the accident, if any, was caused by the deceased himself due to his own negligence.

6. Upon the aforesaid pleadings, the following issues were framed

by the learned Tribunal:-

- “1. Whether the accident took place due to rash and negligent driving of respondent no.1? OPP
2. In case issue no.1 is proved to what amount of compensation the claimants are entitled to and from whom? OPP
3. Whether the claim petition is bad for mis-joinder and non-joinder of necessary parties? OPR-3
4. Whether the driver of truck no.PB-5197 was not holding a valid driving licence, registration certificate and route permit at the time of alleged accident? OPR-3
5. Relief.”

7. Respondent-claimant no.1 Balwinder Kaur testified as PW1 and the aforementioned Gurmail Singh testified as PW2. Appellant Zuzar Singh examined himself as RW1, and Joginder Singh, who was stated to be the Cleaner of the truck, as RW2. The insurance company examined Kedar Nath Sharma, Proprietor of Prinex Detectives Investigators, Gurdaspur, as RW3, Dalip Kumar, Senior Clerk in the office of the District Transport Officer, Gurdaspur, as RW4. The first appellant herein, i.e. the owner of the vehicle, Gurmukh Singh, testified as RW6, with one Karnail Singh having been examined as RW5.

8. On the issue of negligence in causing the accident, the Tribunal relied upon the testimony of PW2 Gurmail Singh, who stated that the deceased was his brother-in-law and on the date of accident they were travelling together, when the truck in question came from the Pipli side and dashed against the vehicle and that the accident took place because of the rash and negligent driving of respondent no.1. To rebut that evidence, appellant no.2, Zuzar Singh, deposed as RW1, to the effect that when he was driving the

truck from Samalkha, when it reached in the area of village Khanpur Kalan at about 4:00 pm, a tractor-trolley came from the side of Ambala and when he was crossing the said tractor-trolley, a three-wheeler came all of sudden in front the truck, without blowing any horn and hit the drivers' side of the vehicle and though he tried to stop the truck immediately, the driver of the three-wheeler lost control over his vehicle as he was in an inebriated state and as such, the accident was actually caused due to the rash and negligent driving of the deceased himself.

It was further contended that there was no other occupant in the said three-wheeler and that he himself took out the driver of the said vehicle and brought him to the hospital in a car coming from Ambala side, but on the Pipli crossing he left the said car, to lodge a report with the police. He reiterated that instead the police did not allow him to leave the police station and registered a false against him.

9. The learned Tribunal, on the basis of two facts, held the second appellant guilty; the first being that he was facing criminal proceedings in respect of the accident and therefore, relying upon a judgment of a co-ordinate Bench of this Court in **Girdhari Lal v. Radhey Shyam and others 1993(2) PLR 109**, an inference was drawn against appellant no.2.

Other than that, it was found by the Tribunal that the Cleaner of the truck had deposed that the injured Gurdev Singh was taken to the hospital by appellant no.2. However, in the testimony of the appellant himself, he had stated that actually he had been detained by the police on the way to the hospital.

On the aforesaid reasoning, the second appellant herein was held guilty of negligent driving leading to the accident.

10. Thereafter, the learned Tribunal took up the issue of validity of the driving licence of the second appellant herein, Zuzar Singh, and though as per his testimony, his driving licence was valid on the date of the accident, it having been issued by the Licensing Authority, Gurdaspur, on 23.04.1992, valid upto 22.04.1995, with an endorsement thereupon to drive heavy transport vehicles also, as per the investigation carried out by the insurance company through Prinex Detectives & Investigators, upon enquiry from the office of the District Transport Officer, Gurdaspur, it was revealed that licence no.225 was actually issued to one Jagdish Raj and not Zuzar Singh, as already noticed.

To prove the aforesaid contention made, vide a report Ex. RW3/B, a Senior Clerk of the office of the District Transport Officer was also examined as RW4, who stated that the original driving licence tagged with the criminal case pending against Zuzar Singh under Sections 304-A etc. of the IPC, was not issued by the Licensing Authority, Gurdaspur, and that it was a fake licence.

A former employer of Zuzar Singh, one Karnail Singh, was also examined as RW5 by the company, who testified that Zuzar Singh remained employed with him in the year 1991 and that he received no complaint about his driving.

11. Appellant no.1 herein also testified to the same effect, that appellant no.2 had remained employed with him as a driver. In his testimony, appellant no.1 also deposed that he had verified with regard to the driving skills of Zuzar Singh from RW5, Karnail Singh.

On the aforesaid testimonies, also citing a judgment of the Supreme Court in **Sait Tarajee Khimchand and others v. Melamarti**

Satyam and others AIR 1971 SC 1865 and judgments of this Court, it was held that it had been proved that Zuzar Singh did not have a valid driving licence, and therefore the insurance company was absolved of the responsibility of indemnifying the compensation to be awarded.

12. On the issue of the compensation payable itself, it was found that the deceased Gurdev Singh was 28 years old and as per the testimony of the widow, i.e. respondent no.1 herein, he was earning Rs.4000/- per month, out of which he used to spend Rs.3000/- on his family. The same was testified to by the brother-in-law of the deceased, PW2 Gurmail Singh also, but as there was no other evidence to support the aforesaid statements, it was held that the earnings of the deceased could be taken to be not less than Rs.1000/- per month, as without at least that much income, he could not have supported his wife and three children.

Of the aforesaid sum, 1/4th was deducted towards the personal expenses of the deceased, thereby leaving the loss of income to the claimants to be Rs.750/- per month (Rs.9000/- per annum).

To that amount, a multiplier of 25 was applied by the Tribunal, stating that numerous authorities of the Supreme Court could be cited to do so. However, no specific authority was cited to that effect in the Award.

On the application of the aforesaid multiplier, a sum of Rs.2,25,000/- was awarded by way of loss of income to the claimants.

Additionally, a sum of Rs.5000/- was awarded to the widow, i.e. respondent no.1 herein, by way of loss of consortium and thus a total compensation of Rs.2,30,000/- was awarded by the Tribunal vide the impugned Award.

13. Issue no.4, which is seen to be whether the driver of the truck

was holding a valid driving licence, registration certificate and route permit, is shown in the Award to have been not pressed and therefore, it was answered against the respondent insurance company.

Actually the issue of the driving licence not being valid was already decided as issue no.3 by the Tribunal and therefore the reference to issue no.4 not being pressed, was obviously qua a valid registration certificate and route permit only.

14. Thereafter, the learned Tribunal awarded interest @ 15% per annum on the compensation amount, apportioning the amount of compensation by awarding Rs.70,000/- to the widow, Rs.50,000/- each to the minor daughters of the deceased and Rs.10,000/- to the mother of the deceased.

Costs of Rs.500/- were also awarded to the claimants.

15. With this appeal, as already noticed, an application under Order 41 Rule 27 read with Section 151 CPC has also been filed by the appellants, in which it is stated that appellant Zuzar Singh actually had a valid driving licence, issued by the District Transport Officer, Amritsar, in the year 1986, valid upto 1995. However, it is contended that it was earlier lost but Zuzar Singh had obtained a duplicate licence, upon "having approached some agents".

A typed copy of the application made by appellant Zuzar Singh (with his name signed Jujhar Singh in the application) to the DTO Amritsar, has also been annexed with the application before this Court, upon which a typed endorsement shown to be signed by the District Transport Officer, Amritsar, is also seen, stating as follows:-

"Returned in original with the remarks that D/Licence

no.26002/DTO/ASR issued on 9-4-86, for H.T.V. only and is valid up to 6-4-95. The licence is genuine as per Office record.”

16. It is to be noticed at this stage that the present appeal is seen to be one, the records of which were destroyed in a fire accident that took place in the record room of this Court in January 2011 and it is seen from the order dated 11.02.2014, that a copy of the paper book had been supplied by learned counsel for the appellants, which was taken on record on that date.

However, though the application under Order 41 Rule 27 CPC, seeking to lead additional evidence, is also a part of the paper book supplied, there is no number of the application seen to be given, obviously for the reason that with the appeal and the application being of the year 1995, when record had not been computerised in this Court, the number originally allotted to the application in the year 1995, is not traceable, the entire paper book having been destroyed. Nonetheless, with neither of the parties denying that the application to lead additional evidence has been filed, and in fact, the case of the appellant being entirely based on the additional evidence sought to be lead, in the form of a driving licence stated to have been issued by the Licensing Authority, Amritsar, which it is contended was a valid licence on the date of the accident, the numbering of the application is unimportant.

17. On that very date (11.02.2014), since the case file of the original appeal was missing and it was not known whether the respondents stood served or not, Mr. Rohit Goswami, Advocate for Mr. R.K. Bashamboo, Advocate, was asked to accept notice on behalf of the respondent-insurance company, Mr. Bashamboo being on the panel of lawyers for the company.

Thereafter, vide an order dated 08.09.2014, with the respondents-claimants (respondents no.1 to 5), having remained unserved, and a statement

having been made by learned counsel for the appellants, that the quantum of compensation awarded by the Tribunal has not been challenged, and the only grievance of the appellants is that the insurer has been absolved of its liability to pay compensation, this Court (co-ordinate Bench) had ordered service of notice of the appeal on respondents no.1 to 5, to be dispensed with.

Counsel for the insurance company had sought time to take instructions with regard to the application under Order 41 Rule 27 CPC, as recorded in the said order itself.

18. Eventually, on 19.02.2016, a last opportunity had been granted to respondent no.6 to take instructions with regard to the verification of the licence now sought to be led by way of additional evidence by the appellants.

Thereafter, a reply dated 09.03.2016 was filed by the insurance company, to the application seeking to lead additional evidence, in which it is stated that though the original driving licence has not been placed on record (with the application), however a report had been obtained from the District Transport Officer, Amritsar, by the investigator of the insurance company, in which the DTO has stated that Driving Licence no.26002, dated 09.04.86, valid upto 06.04.95, stated to have been issued in the name of Jujar Singh, was not issued by that office and hence, it was a fake licence.

A copy of the report of the investigator of the insurance company has been annexed with the reply to the application under Order 41 Rule 27 CPC.

19. Hence, with an endorsement allegedly issued by the office of the District Transport Officer, Amritsar, on the application for a duplicate driving licence, having been annexed with the application under Order 41 Rule 27 CPC, stating to the effect that driving licence no.26002/DTO/ASR issued on

09.04.86 in respect of an HTV was a genuine licence, but the DTO, Amritsar, having stated to the investigator of the insurance company (as contended), that no such licence had been issued by that office, this Court had issued notice to the District Transport Officer, Amritsar, to appear as a Court witness alongwith all necessary registers and documents pertaining to the issuance of the aforesaid licence.

20. On 27.05.2016, the District Transport Officer, Amritsar, had appeared in Court and had also filed an affidavit of the same date, stating therein that driving licence no.26002, shown to have been issued on 09.04.1986 and renewed up to 06.04.1995, for driving a heavy transport vehicle, was never actually issued by the office of the DTO, Amritsar.

Upon query, the DTO had also stated that even in 1986, it was the District Transport Officer, Amritsar, who was competent to issue such a driving licence.

Alongwith the affidavit, the computerised record pertaining to driving licences no.25902 to 25909, dated 09.04.1986, has been annexed, as have photocopies of the entries made in the register concerned, of the driving licences issued on the said date by the DTO, Amritsar, bearing the aforesaid numbers, i.e. 25902 to 25909.

Annexure A-3 (collectively) is a photocopy of the entries in the register, pertaining to driving licences issued at Serial nos. 1 to 10, as a new series is stated to have been started, pertaining to such licences, w.e.f. 10.04.1986.

The computerised record pertaining to the said entries has also been annexed with the affidavit of the District Transport Officer, collectively as Annexure A-4.

The affidavit at the end states that no driving licence bearing no.26002 dated 09.04.1986, was ever issued to anybody by the office of the District Transport Officer, Amritsar.

21. On the aforesaid affidavit having been filed by the DTO, who was also present in Court alongwith the record on 27.05.2016, this Court had issued notice to the appellants on that date, vide the same order which referred to the affidavit filed by the DTO, as to why they be not proceeded against for contempt of Court, as also for committing perjury (by way of filing an application under Order 41 Rule 27 CPC, which is seen to be accompanied by an affidavit of appellant no.1, Gurmukh Singh, the said affidavit being dated 06.04.1995).

Vide the same order it had also been clarified by this Court, that since it is not known due to the records of the case having been burnt, whether there was any stay on the operation of the impugned Award, that no stay would operate qua payment of compensation to the respondents-claimants, if it had not been already paid by the appellants.

22. Thereafter, in response to the aforesaid notice issued to the appellants, Mr. Varendra Singh Punia, Advocate, had appeared for them, with two adjournments being sought either by or on behalf of the said learned counsel, and eventually when this matter had been heard on 14.12.2016, learned counsel for the appellants had stated that appellant no.1 tendered an unqualified apology for tendering a document which was fraudulently prepared. The plea taken was that he is an illiterate person and therefore did not realize what he was doing.

However, this Court had observed that he did not seem to be a completely illiterate person as he had signed in *Gurmukhi* on the

Vakalatnama and in any case, even if he was illiterate, it did not absolve him of having created a forged and fabricated document.

Arguments of learned counsel had been heard on both sides and thereafter judgment had been reserved.

23. Thus, as regards the application under Order 41 Rule 27 CPC, seeking to lead additional evidence in the form of a document which has been found to be fake, at least for the purpose of this appeal, with the apology of the appellants also being to the effect that it be accepted for tendering such a document, the said application cannot be entertained and is hereby dismissed.

24. Coming then to the merits of the contentions made in the appeal, i.e. the issue of negligence of appellant no.2 in causing the accident, and the compensation awarded by the Tribunal to respondents no.1 to 5 herein. As regards the compensation amount, with counsel for the appellants already having made a statement before this Court, as recorded in its order dated 08.09.2014, that the quantum of compensation is not under challenge and this Court having therefore dispensed with service of notice of this appeal itself on respondents no.1 to 5 herein, the quantum of compensation need not be gone into at all.

The only surviving issue therefore is as to whether the learned Tribunal correctly decided that it was appellant no.2 who was responsible in causing the accident on 24.10.1993, leading to the unfortunate death of Gurdev Singh.

25. On that, it has to be stated that the reasoning of the Tribunal is actually not adequate even in summary proceedings, to hold a person negligent in driving a vehicle, simply because an FIR had been registered against him alleging that he was guilty of rash and negligent driving.

The other reasoning given by the Tribunal is that there was a discrepancy in the testimonies of RW2 Joginder Singh, stated to be the Cleaner of the truck, and of Zuzar Singh, appellant no.2 himself, inasmuch as, Joginder Singh had deposed that Gurdev Singh was removed to the hospital by Zuzar Singh, driver of the truck, with however the second appellant herein himself deposing that on the way to the hospital he had stopped at the Pipli Chowk to lodge a report with the police, but that he was detained by the police and a false case of rash and negligent driving was foisted upon him.

Though the testimonies of the said respondents are not available before this Court, as the entire case file of this appeal, alongwith the record thereof is shown to have been burnt in the fire incident of January 2011, a possible inference that could be taken even at face value from the aforesaid testimonies, is that even if the testimony of appellant no.2 Zuzar Singh is to be believed, possibly he took the then injured Gurdev Singh to the hospital from the accident site, but stopped to report the matter to the police, who then made other arrangements for taking the injured to the hospital and detained Zuzar Singh to record the FIR etc. Therefore, the testimonies may not be actually contradictory, to the extent that as per the knowledge of RW2 Joginder Singh, it was Zuzar Singh who had taken the injured to hospital from the accident site.

26. However, even having said that, a perusal of what has been recorded by the Tribunal, pertaining to the testimony of appellant no.2 himself, is that he was driving the truck from Samalkha, going towards Gobindgarh and that when the truck reached in the area of village Khanpur Kalan, at about 4:00 pm, a tractor-trolley was seen coming from the side of Ambala and “as he was crossing the aforesaid tractor-trolley, a three-wheeler

came in front of the truck all of a sudden from behind the tractor-trolley, without blowing any horn and hit the drivers' side of the truck” and that he stopped the truck immediately thereafter but the driver of the three-wheeler had lost control of his vehicle as he was in an inebriated state.

27. Firstly, though the record of the evidence led before the Tribunal has been burnt, no attempt has been made by the appellants to obtain a duplicate copy of the post mortem report or any MLR to show that deceased Gurdev Singh was found to be under the influence of liquor at the time of the accident. Hence, that part of the testimony can not be believed by this Court, it obviously not having been believed by the Tribunal, with nothing to point out to this Court, by which it could be inferred that the Tribunal had erred in not holding that deceased Gurdev Singh was under the influence of liquor at the time of the accident.

Secondly, with nothing shown to this court that the other part of the testimony has been wholly disbelieved in any criminal proceedings, by which the second appellant herein has been acquitted not due to the benefit of doubt but with it being proved that it was actually Gurdev Singh who was at fault, it would be difficult for this Court, at this stage, to reject the finding of the Tribunal, in the absence of any site plan and photographs etc. to hold that actually it was the deceased who was responsible for causing the accident.

One thing would also be apparent from the testimony of Zuzar Singh as reproduced in the impugned Award, that the truck was obviously at a fast speed and therefore could not stop in time, even if for the sake of argument it is to be presumed that the three-wheeler indeed suddenly came on to the “wrong side” of the road, in order to try and overtake the tractor-trolley, while the truck was crossing on its correct side.

Either way, in the absence of any evidence led before this Court to show that it was indeed the deceased who was responsible in causing the accident in any manner, simply the oral testimony of the appellant, in the absence of any site plan etc., cannot be accepted by this Court in an appeal against an Award passed in summary proceedings, to hold that it was actually not appellant no.2 but the deceased who was negligent in causing the accident.

Hence, the finding in the impugned Award on issue no.1 is upheld.

28. Though learned counsel for the appellant had made a statement that the quantum of compensation is not being challenged, as already noticed earlier, however, this Court is still constrained to say that undoubtedly, as per law now settled, the multiplier of 25 applied by the Tribunal to the loss of annual income to the respondents-claimants, is too high, and a maximum multiplier of 18 could have been applied in terms of the ratio of the judgment in **Smt. Sarla Verma and others v. Delhi Transport Corporation and another** (2009) 6 SCC 121, constantly followed thereafter. In the present case, since the deceased was found to be 28 years old, in fact, a multiplier of 17 should have been applied. However, it is also seen that the minimum wage for an unskilled labourer in October 1993 (the month of the accident), was Rs.1046.50 per month, as notified by the State of Haryana; and therefore, the annual income of the deceased would have been Rs.12,558/-. From that, a deduction of 1/4th towards his personal expenses, as was applied by the Tribunal, is not seen to be incorrect, for the reason that even as per the ratio of *Sarla Verma's* case, that was the correct deduction to be made towards personal expenses of the deceased, from his annual income and therefore, the

loss of dependent income to the respondents-claimants would be Rs.9418.50

annually. If a multiplier of 17 is applied to that income, the loss of income comes to Rs.1,60,115/-, which is undoubtedly less than what was assessed by the Tribunal, due to the application of a multiplier of 25 to the loss of annual income of Rs.2,25,000/-, assessed by the Tribunal under that head.

Yet, with the Tribunal having awarded only Rs.5000/- by way of loss of consortium to the widow of the deceased, i.e. respondent no.1 herein, and no amount whatsoever awarded towards funeral expenses and last rites, and also no amount whatsoever awarded for the loss of love and affection of their father to the then minor children, i.e. respondents no.2 to 4 herein, obviously if those amounts are to be added to the loss of income in terms of the now settled law, the amount of compensation would go much higher than the total amount of Rs.2,30,000/- awarded by the Tribunal. Hence, even if counsel for the appellants had contested the Award on the issue of the quantum of compensation, that challenge would not have been sustainable.

29. In view of the above, this appeal is dismissed, with costs of Rs.10,000/- imposed upon the appellants, essentially for relying upon a fabricated document, to contest the Award of the Tribunal.

Out of the aforesaid costs, Rs.2000/- would be payable to the respondents-claimants, Rs.3000/- to the respondent-insurance company and the remaining Rs.5000/- would be deposited in the fund of the Legal Services Committee of this Court.

30. Coming then to the notice issued to the appellants as to why they be not proceed against under the Contempt of Courts Act, 1971 and under Section 340 of the Code of Criminal Procedure, 1973, for having tried to lead

additional evidence, on the basis of a document which at least for the purpose of this appeal, in terms of the affidavit of the District Transport Officer, Amritsar, and apology tendered on behalf of the appellants, has been found to be fabricated.

Since the appeal was filed 22 years ago, i.e. in the year 1995, and the 1st appellant is stated to be illiterate or almost so, his apology for the purposes of proceedings under the said provisions is accepted by this Court, though correctly as a matter of fact, the appellant should be proceeded against even under the said provisions, especially as the appeal has been pursued, including the application under Order 41 Rule 27 CPC, and an affidavit in support thereof had been filed in the year 1995 by appellant no.1 herein.

However, the rule issued qua both those proceedings stands discharged.

31. Yet, though this Court has decided to not pursue proceedings in respect of commitment of any perjury or contempt of the proceedings of this Court, I find myself unable to completely condone an act by which, for the purpose of criminal proceedings, prima-facie it is seen that a criminal offence has been committed by the appellants, in fabricating a driving licence, shown at least before this Court to have been not issued by the authority by whom it is stated to have been issued (even as per the appellants).

Hence, even invoking jurisdiction under Article 226 of the Constitution, a direction is issued to the Commissioner of Police, Amritsar, to get registered an FIR in the police station as has jurisdiction in the area where the office of the District Transport Officer, Amritsar, is located, in view of the fact that it is the affidavit of that officer, filed before this Court, stating that no such licence had been issued to appellant no.2 herein. Hence, prima-facie,

offences punishable at least under Sections 466, 468 and 471 IPC are seen to

be made out against the appellants.

The offences prima-facie seen to be made out against the appellants, punishable under the aforesaid provisions, shall not be taken as exhaustively dealt with by this Court, inasmuch as, if any other offence is also seen to be made out against them, as is still punishable not being barred by limitation in terms of Chapter XXXVI of the Code of Criminal Procedure, 1973, such offence may be added in the FIR.

Since issuance of the driving licence purported to have been issued to appellant no.2, has been denied by the District Transport Officer, Amritsar, on affidavit before this Court, the basis of the FIR to be registered shall, in addition to this order, be the affidavit dated 27.05.2016 of that officer, as has been filed before this Court.

A copy of the entire paper book of this appeal, be sent by the Registry of this Court, to the Commissioner of Police, Amritsar, for compliance of this order.

It is however made clear that the observations made by this Court, even in relation to the directions issued to register an FIR, have been made in the context of the report of the insurance company by way of its reply to the application under Order 41 Rule 27 CPC and the affidavit of the District Transport Officer, Amritsar, with regard to the allegations prima-facie made out against the appellants. Investigation in the matter pursuant to the FIR to be registered, shall be done wholly on merits and the outcome thereof also would be dealt with wholly on merits by the competent Court seized of any report filed under Section 173 Cr.P.C. thereafter.

32. Since this Court has directed registration of the FIR aforesaid, in view of the alleged fabricated document shown to have been relied upon before this Court, and jurisdiction under Article 226 of the Constitution of India has been invoked to do so, a status report of the Commissioner of Police, Amritsar, by way of his affidavit, with regard to the outcome of the FIR to be registered, shall be put up once before this Court on 27.10.2017. Otherwise, as regards this appeal itself, it already stands dismissed, as above.

July 4, 2017
dinesh

(AMOL RATTAN SINGH)
JUDGE

1. Whether speaking/reasoned?	Yes
2. Whether reportable?	Yes