

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

FAO No.222 of 1996

Date of Decision.08.09.2017

The National Insurance Co. Ltd.

.....Appellant

Vs

Ved Parkash Jain and others

.....Respondents

2. FAO No.1189 of 1996

Ved Parkash Jain

.....Appellant

Vs

Partap Singh and others

.....Respondents

Present: Mr. Navin Kapur, Advocate
for the appellant in FAO No.222 of 1996 and
for respondent No.3 in FAO No.1189 of 1996.

Mr. O.P. Gupta, Advocate
for the appellant in FAO No.1189 of 1996 and
for respondent No.1 in FAO No.222 of 1996.

Mr. Jitender Sharma, Advocate
for respondent No.1 in FAO No.1189 of 1996 and
for respondent No.2 in FAO No.222 of 1996.

None for respondent No.2 in FAO No.1189 of 1996 and
for respondent No.3 in FAO No.222 of 1996.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

This order of mine shall dispose of two appeals bearing Nos.222 of 1996 and 1189 of 1996. The former is at the instance of the insurance company challenging the liability fastened upon it and the latter is at the instance of the claimant seeking enhancement of compensation on account of injuries received in a motor accident occurred on 11.02.1993.

Mr. O.P. Gupta, learned counsel appearing for the appellant in

FAO No.1189 of 1996 submits that the injured-appellant has since expired. The Tribunal had granted compensation for the injuries suffered by him to the tune of ₹2,56,000/- by fastening the liability upon the insurance company. Since it was a case of personal injuries caused on the person of the deceased, the benefit cannot be enured to the legal representatives, therefore, it would not be necessary to adjudicate upon the controversy on merits.

As regards the appeal filed by the insurance company in FAO No.222 of 1996, the argument of Mr. Kapur is that Ex.R2, original driving licence, was found bogus but it was renewed by the competent authority. The finding of the Tribunal fastening the liability upon the insurance company is based upon the ratio decidendi culled out by this Court in **National Insurance Company Ltd. Vs. Sucha Singh and others (1994-1) PLR 140** which is no more a good law as once the original driving licence is bogus, the renewal would not render it valid, therefore, recovery right cannot be accorded. In support of his contention, relies upon the judgments of Hon'ble Supreme Court in **National Insurance Co v Swaran Singh (2004) 3 SCC 297** and **United Indian Insurance v Divinder Singh (2007) 8 SCC 342.**

Mr. Jitender Sharma, learned counsel appearing on behalf of the driver submits that the owner had verified the driving licence and therefore, once the verification has been done, it cannot be termed to be breach of terms and conditions of the insurance policy.

The aforementioned argument has been rebutted by Mr. Kapur and Mr. Gupta on the premise that the owner has not stepped into the witness box, therefore, they have been deprived of confronting the owner.

I have heard learned counsel for the parties, appraised the paper book and in agreement of the submissions of Mr. Kapur that unless and until the owner has not stepped into the witness box to depose that he had taken effective steps in verifying the licence at the time of giving employment to the driver, indemnification of the insurance company was required to be discharged.

Resultantly, the finding rendered by the Tribunal *viz-a-viz* the issue No.3 is hereby modified. Recovery rights are given to the insurance company to recover the amount against the owner and driver jointly and severally for the amount of compensation already awarded i.e. ₹2,56,000/-.

It has been brought to the knowledge of this Court that out of total amount of ₹2,56,000/-, ₹1 lac has already been disbursed to the claimant and the remaining amount was stayed, however, the same is lying deposited with the Tribunal. The remaining amount of ₹1,56,000/- is also ordered to be disbursed in favour of the legal representatives of the deceased-appellant with interest as granted by the Tribunal in accordance with law.

Both the appeals are disposed of in the above terms.

(AMIT RAWAL)
JUDGE

September 08, 2017

Pankaj*

Whether reasoned/speaking Yes/No

Whether reportable Yes/No