

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

-.-

FAO No. 109 of 1997

Date of decision: 09.10.2017

National Insurance Company Limited

..... Appellant

Versus

Nasib Kaur and others

..... Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Deepak Suri, Advocate
for the appellant

Ms. Swati Verma, Advocate
for respondents No. 1 and 2

Mr. Karamjit Verma, Advocate
for respondent No. 3

Mr. Vinod Gupta, Advocate
for respondent No. 5

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Rekha Mittal, J. (Oral)

The present appeal directly challenges against award dated 06.08.1997 passed by the Motor Accidents Claims Tribunal, Kapurthala (in short, 'the Tribunal') whereby compensation has been awarded in regard to death of Avtar Singh in a motor vehicular accident that took place on 17.04.1994.

Counsel for the insurance company has fairly informed that the instant appeal has been filed to challenge findings of the Tribunal on issue No. 4 whereby the said issue with regard to driving licence has been answered against the insurance company by holding that the insurance

company (respondent No. 4 therein) has not adduced any evidence that respondent no.1 (therein) was not having a valid licence. It has been argued that the insurance company has filed an application for additional evidence by invoking order 41 rule 27 of the Code of Civil Procedure to prove report Annexure A1 received from Nagaland from where the driving licence in question is purported to be issued.

In case plea of the insurance company that driver of the offending vehicle was not possessing a valid driving licence is accepted, necessary fallout may be that the insured has violated the terms and conditions of contract of insurance and consequently the insurance company is entitled to have right of recovery against the insured. In the case at hand, appeal against respondent No. 4 - M/s the Patiala Bus Sirhind Pvt Limited, Sarhand, District Fateh Gargh Sahib through its Managing Director stands dismissed vide order dated 08.12.2015. Under the circumstances, nothing survives for consideration of the Court qua challenge against findings of the Tribunal on issues No. 4.

For the foregoing reasons, the appeal fails and is accordingly dismissed.

(Rekha Mittal)
Judge

09.10.2017
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No