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

FAO No.2670 of 1999
Date of Decision.17.07.2017

Sikander Singh son of S. Mukhtiar Singh ....Appellant

Vs

National Insurance Company Limited and others ....Respondents

Present: Mr. P.S. Punia, Advocate
for the appellant.

Mr. Varun Sharma, Advocate for
Mr. Ashwani Talwar, Advocate
for the insurance company.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The appeal is on behalf of the owner and driver-Sikandar Singh against the award dated 16.2.1999 passed by the Motor Accident Claims Tribunal whereby the claimants have been awarded a compensation of ₹3,50,460/- by fastening the liability upon him with interest @12% from the petition till the date of the award. Along with the appeal, an application for additional evidence had been filed for ascertaining the veracity/validity of the driving licence. On 21.04.2015, this Court had passed the following order in the aforementioned application, seeking report from the Licensing Authority, Hoshiarpur with regard to evidence of the driving licence said to have been issued by it:-

> *"There is an application for additional evidence brought on behalf of the applicant-appellant to bring on record the driving licence, copy of which has been tagged with the application. Even though this application for additional evidence was filed along with the appeal in the year 1999 but till date no reply to the application has been filed on behalf of respondent-insurer. The circumstances are sufficient to infer that the respondent-insurer does not intend to*

contest the application. Even during the course of hearing, learned counsel for the respondent-insurer has not been able to successfully oppose the application. In these circumstances, the application is accepted. Copy of the driving licence is taken on record subject to all just exceptions including verification of the driving licence by the competent Issuing Authority. Adjourned to 20.04.2015. In the meantime, a report be sought from Licencing Authority, Hoshiarpur, with regard to the genuineness of the driving licence stated to have been issued vide No.154/DUP/99-2000 in the name of Sikander Singh son of Mukhtiar Singh resident of village Ghagra, District Hoshiarpur."

The report dated 10.04.2015 attached as Flag 'R' with the case file reads as under:-

"*That the driving license which was issued by Licensing Authority Nagaland in the name of Sikander Singh son of Mukhtiar Singh referred to in the subject above for Heavy Transport Vehicle was renewed upto 21-08-1999 by this office vide No.3734/R/96-97 dated 22.08.1996 and duplicate copy of above said Driving Licence was issued by this office vide No.154/DUP/99-2000."*

On perusal of the aforementioned report, it has surfaced that the driving licence issued by Licensing Authority, Nagaland in the name of Sikander Singh son of Mukhtiar Singh was for Heavy Transport Vehicle and was renewed upto 21.08.1999 by the aforementioned office on 22.08.1996 whereas the accident had taken place on 20.10.1996, thus, according to Punia, in view of the report submitted by the Licensing Authority, Hoshiarpur, finding of the Motor Accident Claims Tribunal qua fastening of the liability upon the driver and owner is liable to be modified.

Mr. Varun Sharma for Mr. Ashwani Talwar, learned counsel appearing on behalf of respondent No.1-insurance company submits that in view of the aforementioned report, the insurance company is liable to indemnify the owner and driver, owing to terms and conditions of the insurance policy.

I have heard learned counsel for the parties and appraised the paper book. The finding of the Tribunal fastening the liability on the owner and driver reads thus:-

> "*13. The driving licence is found to be fake as per report Ex.R1 and it is reported that the driving licence No.12236/S/76 was not issued by the office of Regional Transport Office, Nasik and it is not genuine. It is pertinent to note that Sikander Singh respondent has not dared to step into the witness box to deny these facts nor he has been able to place on record the genuine driving licence. It is, therefore, held that he was not holding genuine driving licence at the time of accident. Therefore, the insurance company is not liable to pay the compensation.*"

However, in view of the report extracted above, it has been revealed that the driving licence has been found to be genuine whereas the accident had taken place on 20.10.1996. There is no appeal on behalf of the claimants for seeking enhancement.

In view of the aforementioned report, the finding of the Motor Accident Claims Tribunal is liable to be modified. As a result of which, the liability is fastened upon the respondent No.1-insurance company and not on the owner and driver. The amount of ₹25,000/- deposited by the appellant, if not sent to the Tribunal for onward disbursal is ordered to be refunded and if otherwise, the owner is at liberty to seek refund of the same from the insurance company.

The appeal stands disposed of in the aforementioned terms.

(AMIT RAWAL)
JUDGE

July 17, 2017
Pankaj*

Whether reasoned/speaking	Yes
Whether reportable	No