

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

FAO No. 1828 of 2001 (O&M)

Date of decision: 15.12.2017.

Dilphool Singh and another

...Appellants

versus

The New India Assurance Company Limited and others

...Respondents

CORAM : HON'BLE MR. JUSTICE RAJIV NARAIN RAINA.

Present : Mr. U.K. Agnihotri, Advocate
for the appellants.

Mr. Neeraj Khanna, Advocate
for the respondent-Insurance Company.

RAJIV NARAIN RAINA, J. (ORAL)

1. This is an appeal against the award dated 14.02.2001 passed by the Motor Accident Claims Tribunal, Hisar.

2. All the proven facts inform against the appellants; the driver of the offending vehicle did not hold a valid and effective driving licence on the date of the accident, i.e. 29.10.1999; no evidence was produced on record to prove that after expiry of the driving licence was a request within 30 days made for renewal, only had that been done could the driving licence be renewed to relate to the date of expiry and thus the fatal accident. To make things more difficult for the owner and the driver involved in the criminal case, the police produced another driving licence of the driver issued by the Licencing Authority, Siwani, Haryana which was found fake. The expired licence was issued by the

Licencing Authority in Una (H.P). In these circumstances the learned Tribunal absolved the Insurance Company of the liability and fastened it on the appellants. There is nothing in Section 15 of the Motor Vehicles Act, 1988 which may come in aid of the appellants on the question of renewal of driving licence. It appears to be settled that in a case of an expired driving licence, Insurance Company is not liable to indemnify the insured.

3. In view of the factual position, it is not possible to give any relief to the appellants. As a result, the appeal is dismissed.

4. The compensation for the death of 10 year old girl was awarded at ₹ 1,00,000/-. The claimants are not in appeal. This is a burnt appeal in which the interim orders are not available on record, but, learned counsel for the appellants informs that 50% of the amount awarded by the Tribunal with interest was deposited before the Tribunal for disbursement as directed by this Court. Accordingly, the appellants would deposit the remaining half with interest and the same be done within two months from the date of the receipt of the certified copy of this order and in case of default of payment, the amount in default will carry 12% interest till payment. Counsel fee was assessed @ Rs. 550/- by the Tribunal each side but this is on the lower side as not only counsel fee but litigation costs also ought to have been given which are increased to ₹ 5,500/-. The amount of ₹ 4,950 i.e. ₹ 5500 – ₹ 550 without interest be also deposited before the MACT to partly defray

expenses they must have been incurred in the litigation over the years.

5. The Lower Court record requisitioned be sent back.
6. Copy of the order be also sent to the claimants. It would also be the duty of the Motor Accident Claims Tribunal, Hisar to issue notice to the claimants and on appearance disburse the compensation with interest on the unpaid amount at the rate awarded.

(RAJIV NARAIN RAINA)
JUDGE

15.12.2017

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Whether speaking/reasoned : Yes

Whether reportable : No