IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O No. 1330 of 2010
Date of decision:- 03.07.2017

Om Parkash ...Appellant

Versus

Reliance General Insurance Co. Ltd. & ors. ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Rakesh Garg, Advocate
for the appellant.

Mr. Subhash Goyal, Advocate
for respondent No. 1.

None for other respondents.

RITU BAHRI J.

The present appeal has been preferred by the owner-appellant (for short 'the appellant') against the award dated 16.01.2010 passed by the learned Motor Accident Claims Tribunal, Kaithal (for short, 'the Tribunal') granting the recovery rights to the Insurance Company against the present appellant.

The facts in brief are that on 05.01.2008 Khazan Singh accompanied by one Rameshwar had gone to village Keorak. When bicycle of Rameshwar had gone out of order due to puncturing of tube, they stopped at bus stop Keorak and Khazan Singh started filing the air in the tube of the tyre of the bicycle. His cousin Karambir, who had also gone there, was talking with him. In the meantime one tractor, being driven by respondent No. 1 in a rash and negligent manner, hit Khazan Singh after having come on its wrong side. The rear vehicle of the tractor ran over Khazan Singh. In this accident, one rickshaw puller Sunehra and Rameshwar also received minor injuries. The people present there shifted Khazan Singh to Civil Hospital Kaithal where he was declared dead.

On notice, respondent Nos. 1 and 2 filed their joint reply to the petition filed by the claimants and pleaded that no such accident had occurred nor did deceased Khazan Singh received any injury in the fashion pleaded in the petition.

Respondent No. 3-Insurance Company filed its separate reply and denied the fact of accident for want of knowledge. It has been pleaded that the petition has been filed by the claimants in collusion with respondent No. 1 and 2. Further it was pleaded that even if the accident had occurred and it was proved to be the insurer of the above tractor still it was not liable to compensate the claimants for the death of Khazan Singh, as respondent No. 1, at the time of accident, was driving the above tractor in violation of the term of insurance policy as he was not holding a valid and effective driving licence for driving the above tractor.

The learned Tribunal after going through the entire evidence observed that as per certificates, respondent No. 1 was minor at the time of alleged incident, as he was 15 years of age. He could not be issued the licence. The licence was held to be invalid and in-genuine having been issued in violation of the terms of the Motor Vehicles Act by the authority. Thus, the tractor was being driven by respondent No. 1 in violation of the terms of the insurance policy Ex R7.

Accordingly, the learned Tribunal granted the compensation of Rs.4,52,000/- to the claimants but gave the recovery rights to Insurance

Company to recovery the amount from respondent Nos. 1 and 2.

Learned counsel for the appellant contends that the appellant is owner of the offending vehicle and is challenging the award to the extent that recovery rights given to the Insurance Company be set aside on the ground that in compliance of order dated 26.08.2016 passed by this Court, the Insurance Company has placed on record the verification report of the driving license of Rinku Sharma-driver of the tractor and as per this report, he was authorized to drive scooter, Motorcycle, Car, Jeep and tractor. The operative part of verification report dated 21.01.2016 reads as under:-

"Verified particulars of the driving license are as under:-

Driving License No.	*LL/10388/2007-08*
Name of its holder	*Rinku s/o Sh. Dharam Pal*
Date of Issue	*18-12-2007*
Valid up to	*17-06-2008*
Issuing Authority	*LA Kaithal*
Vehicles authorized	*Scooter, Motorcycle, Car, Jeep and tractor*

I find that this driving license is valid only as per details given above and not otherwise in any manner.

In view of the above verification report, once it was found that the driver was authorized to drive scooter, Motorcycle, Car, Jeep and tractor, the Insurance Company is not liable to get the recovery rights and the observation of the learned Tribunal with regard to the fact that the driver was not holding the valid driving licence, is required to be set aside.

Accordingly, the present appeal is partly allowed to the extent that Insurance Company is liable to make the compensation to the claimants and the Insurance Company will not have any recovery rights to recover the same from the driver or owner of the offending vehicle. Remaining conditions of disbursal of amount shall remain unaltered.

03.07.2017 (***RITU BAHRI***)
G Arora ***JUDGE***

Whether speaking/reasoned ***Yes***
Whether reportable ***No***