

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

-.-

F.A.O No. 3621 of 2011 (O&M)

Date of decision : May 10, 2017

Naresh Kumar

... Appellant

Versus

National Insurance Co. Ltd. & Ors.

... Respondents

**CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA**

Present: Mr. Manav Satija, Advocate, for  
Mr. Rajesh Lamba, Advocate for the appellant.

Mr. Suvir Dewan, Advocate, for respondent No.1

**HARI PAL VERMA, J (Oral)**

Present appeal has been filed by Naresh Kumar, who is driver-cum-owner of the offending motor-cycle bearing registration No. HR-29T-4995, against the award dated 14.02.2011 passed by Motor Accident Claims Tribunal, Faridabad, whereby the claim petition filed by the respondents-claimants (respondent Nos. 2 and 3 herein), under Sections 166 and 140 of the Motor Vehicles Act was allowed and the claimants were held entitled for a total compensation of Rs.2,64,500/-, which includes compensation for loss of estate and compensation of funeral and transportation expenses as well.

Vide the said award dated 14.02.2011, the learned Tribunal has held that the insurance company was not liable to pay the compensation to the claimants as Ex. R/1, the driving license relied upon by the respondent No.1 (appellant herein) does not inspire confidence and the driving license Ex.P-2, which he admits to be his driving license was not valid as on the date of accident. The liability to pay the compensation was fastened upon the appellant. However, the insurance company was directed to pay the amount

of compensation to the claimants and then to recover the same from the appellant.

Against the aforesaid award, the driver-cum-owner of the offending vehicle has filed the instant appeal.

Learned counsel for the appellant has argued that as on the date of accident, the appellant was holding a valid and effective driving license and the tribunal has wrongly fastened the liability to the pay the compensation upon the appellant.

I have heard learned counsel for the parties and perused the record.

While the appeal was pending consideration before this Court, on 14.03.2013, this Court has passed the following order:-

*“The counsel for the Insurance Company shall make verification on the document produced before the Court below as R1 that was purported to be genuine driving licence.*

*Adjourned to 04.05.2013.”*

Pursuant to the aforesaid order, learned counsel for respondent No.1-Insurance Company has produced Verification report No. DTO-Z/DLV/2015-16/21 dated 21.09.2016 issued by District Transport Officer, Govt. of Nagaland, Zunheboto, Nagaland in respect of driving license No. 27238/TV/Z/2008 issued in the name of appellant-Naresh Kumar son of Bihari Lal, which is taken on record.

A perusal of the report submitted by the learned counsel for respondent-Insurance Company shows that driving license No. 27238/TV/Z/2008 issued in the name of appellant-Naresh Kumar was genuine.

On the basis of aforesaid report issued by District Transport

Authority, it is clearly established that at the time of accident the appellant, who was owner and driver of the offending vehicle, was holding a valid and effective driving licence. In this manner, instead of having recovery rights, it is the insurance company who is responsible for payment of compensation to the claimants.

Accordingly, the award dated 14.02.2011 passed by Motor Accident Claims Tribunal, Faridabad is modified to the extent that respondent-National Insurance Company Ltd. shall be responsible to pay compensation to the claimants.

In case the appellant-owner and driver of the offending vehicle bearing No. HR-29T-4995 has paid the compensation, the insurance company shall indemnify him.

With the above modification in the award, the present appeal stands disposed of.

May 10, 2017  
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(HARI PAL VERMA)  
JUDGE

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|---------------------------|---|--------|
| Whether speaking/reasoned | — | Yes/No |
| Whether reportable        | — | Yes/No |