

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

FAO No. 5714 of 2011 (O&M)
Date of Decision: December 06, 2017

Mahabir and another

...Appellants

Versus

Dewaki and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. B.S. Rathee, Advocate
for the appellants.

Mr. Rajesh K. Sharma, Advocate
for respondent no. 5.

ANITA CHAUDHRY, J.

This appeal is by the owner and driver disputing the liability placed upon them.

The issue involved pertains to the driving licence. An accident had taken place on 11.03.2011 when the offending vehicle hit Khatar Mandal who was going on a rickshaw. The Tribunal on completion of evidence calculated the compensation and also found that respondent no.1 was not holding a valid driving licence on the date of accident. It had minutely gone through the statement made by Mahavir and the report of the licensing authority and exonerated the insurance company and placed the responsibility of payment of compensation on respondents no.1 & 2.

The sole submission on behalf of the appellants is that two licences had been produced on record and the licence Ex. R1 had expired on 28.09.2007 and the driver had another license which was valid up to March 2013 and that licence was never got verified. The counsel had relied upon *United India Insurance Co. Ltd. Vs. Raj Rani* 1998(1) ACJ 175 and *Ravi Dutt Vs. Ravi and others* in CR No.47 of 2014, DOD 31.10.2014 (P&H) and urged that the Apex Court as well as the Division Bench had held that the insurance company should have verified the second licence when the first licence was found to be fake.

The submission on the other hand is that the police had arrested the driver and he was carrying licence Ex. R1 and some endorsement has been made over it that it was valid up to March 2013 but on verification it was found that licence had not been renewed after 28.09.2007 and to overcome that, they got another licence prepared from Nagaland when the driver was not a resident of Nagaland. It was urged that the vehicle was also damaged and the same driving licence was furnished and the claim was repudiated as the driver did not have the valid licence on the date of accident and that was never challenged.

Responding to the submissions the counsel for the appellants contends that brother of the driver was in Army and was posted in Nagaland and Mahavir was living with him and that is when the licence was prepared and the matter be remanded and the Tribunal be directed to get the licence verified.

The submission led on behalf of the appellants need to be rejected. Section 9 of the Motor Vehicles Act provides that a person can

obtain a driving licence from the licensing authority having jurisdiction in which he originally resides. The driver in this case is a resident of village Chatiya Aoliya, District Sonapat (Haryana). The second licence has been issued from Nagaland. Mahavir had never been employed in Nagaland nor did he make any statement in this regard when he stepped into the witness box. He had stated that he had gone to Nagaland in 2010.

I have gone through the judgments referred to by the counsel for the appellants. I find that none of the judgments are of any help. The facts are entirely different. The licence Ex. R1 was validly issued and was not fake but its validity was only up to 28.09.2007 and had not been renewed subsequently. The accident had taken place in March 2010. The driver made an attempt and filed another driving licence issued by the Nagaland authorities. The driver was not a ordinary resident of Nagaland. He did not state that he had been employed in Nagaland. There was no need of verification of the second licence as there is no provision for obtaining a second driving licence. Only the first licence could have been renewed. On the day of the accident the driver had no licence and the liability was rightly placed upon the owner-driver. I find no merit in the appeal and is dismissed.

(ANITA CHAUDHRY)
JUDGE

December 06, 2017

sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No