IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2937 of 2013 (O&M)
Date of decision: 08.09.2017

Reliance General Insurance Co. ...Appellant

Versus

Akbar and others ...Respondents

FAO No.2938 of 2013 (O&M)

Reliance General Insurance Co. ...Appellant

Versus

Ghusla and others ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Ms. Vandanaa Malhotra, Advocate
for the appellant.

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REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.2937 and 2938 of 2013 as these have emerged out of the same award dated 10.08.2011 passed by the Motor Accidents Claims Tribunal, Nuh whereby compensation has been awarded in regard to death of Kallu and Nafees in a motor vehicular accident that took place on 13.05.2009.

Counsel for the appellant has fairly informed that appeals have been preferred by the insurance company to assail findings of the Tribunal on issue No.3 with regard to driving licence possessed by driver of the offending dumper HR-55-C-0329. It is argued that driving licence

No.2676/AG/06 dated 07.03.2006 of Mohd. Saad son of Yakub was verified from the concerned licencing authority at Agra and a report (Annexure A-1) was received from the said authority to the effect that no fee has been found to be deposited in respect of said driving licence dated 07.03.2006 and without depositing the licence fee, no licence can be issued. It is further argued that on the basis of report dated 23.05.2011 (Annexure A-1), it can be safely concluded that driver of the offending vehicle was not possessing a valid licence at the time of occurrence and the same amounts to breach of the terms and conditions of the insurance policy and valid defence under Section 149(2) of the Motor Vehicles Act, 1988, entitling the insurance company to be exonerated of its liability to pay compensation or in the alternative to press for recovery right against the insured.

There is no representation on behalf of the respondents.

I have heard counsel for the parties, perused the paper book particularly the award dated 10.08.2011.

The learned Tribunal under issue Nos.3 and 4 onus whereof was cast upon the insurance company (respondent No.3 therein) has held that these issues were not pressed. On a query by the Court, counsel for the appellant would inform that the insurance company did not adduce any evidence to prove that driver of the offending vehicle was not holding a valid and effective driving licence on the day of occurrence. Indisputably, the documents sought to be relied upon by the appellant in appeal is a report purported to be issued by an authority at Agra, was not a part of the trial Court records nor the said report otherwise can be read into evidence against the claimants or the insured, without proving the same in accordance with law.

Under the circumstances, the appellant cannot derive any advantage to its contention from the document (Annexure A-1) to seek reversal of findings of the Tribunal on Issue Nos.3 and 4 or assert right of recovery against the insured.

No other point has been raised.

For the foregoing reasons, the appeals fail and are accordingly dismissed. No order as to costs.

08.09.2017 **(REKHA MITTAL)**
ashok /sd **JUDGE**

Whether speaking/reasoned: Yes / No

Whether reportable: Yes / No