IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1893 of 2014 (O&M)
Date of Decision: 27.09.2017

Mohan Lal and another

...Appellant(s)

Versus

United India Insurance Co. Ltd. and others

...Respondent(s)

CORAM:-HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Sanjay Jain, Advocate
for the appellant(s).

Mr. Rajesh K. Sharma, Advocate
for respondent No.1.

ANITA CHAUDHRY, J.

The case was fixed for arguments on stay application today. Counsel for the parties state that they are ready with arguments in the main appeal. Therefore, main case is taken up on Board for hearing.

This is the owner's appeal disputing the liability placed upon them vide award dated 22.01.2014 passed by the Motor Accident Claims Tribunal, Ambala.

The petition under Section 163-A of the Motor Accident Claims Tribunal had been filed by the claimants seeking compensation for the death of Ravinder Kaur. The Tribunal had assessed the compensation at Rs.6,37,000/-.

Counsel for the owner submitted that the record which was brought by the licensing clerk was loose and was stitched up several times and the pages where this licence should have been, was not brought and the Tribunal had wrongly placed the liability of payment of compensation upon respondents No.1 and 2.

The submission on behalf of the owner-driver further is that the owner had stepped into the witness box as RW-3 and has deposed that while appointing the driver he had seen the driving licence and had also taken his driving test and he was not expected to verify the genuineness of the driving licence from the licensing authority.

It was contended that in '*Pepsu Road Transport Corporation Vs. National Insurance Company (SC) 2013 AIR SCW 6505'* case *(supra)* reported in ACJ 2440, it was held that where the owner had seen the licence and had discharged its duties he was not expected to verify the genuineness of licence. It was urged that the owner/driver should be exonerated and the insurance company be made liable to pay the compensation.

The owner had stepped into the witness box and had made a categoric statement that he had seen the licence. In the light of the law laid down by the Apex Court in **"***Pepsu Road Transport Corporation's* case *(supra),* the owner was not required to make any specific inquiry, therefore, he was entitled to full indemnity and the responsibility for payment of compensation could not have been placed on them. The appeal is allowed. The award is modified and it is held that the compensation to the claimants shall be paid by the Insurance Company. The statutory amount deposited by the appellant would be returned.

(ANITA CHAUDHRY)
JUDGE

September 27, 2017
ps-I

Whether Reasoned/Speaking **Yes/No**
Whether Reportable **Yes/No**