In the High Court of Punjab and Haryana at Chandigarh

F.A.O No. 198 of 2014 (O&M)
Date of Decision: 06.12.2017

National Insurance Company Limited ......Appellant

Versus

Sukhdev Kaur and others ....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Maninder Arora, Advocate
for the appellant.

Ms. Gurnam Kaur Turka, Advocate
for respondents No. 1 and 2.

Respondent No. 3 *ex parte*.

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ANITA CHAUDHRY, J

This appeal is by the insurance company seeking recovery rights.

A claim petition had been filed by Sukhdev Kaur and others seeking compensation for the death of Dalip Singh. The Tribunal passed the award on 1.10.2013 and computed the compensation. The insurance company had disputed its liability on the ground that the driver did not have a licence at the time of the accident. The Tribunal noted that the accident had taken place on 2.10.2011. It also observed that the licence had expired on 4.11.2008 and subsequently it was renewed on 4.11.2011 i.e. after the accident but rejected the plea of the insurance company and observed that the non-renewal would not have any affect.

Notice was given to all the respondents. No one has appeared on behalf of the owner and driver.

I have heard the submissions on behalf of the appellant and the claimants and I find merit in the submissions made on behalf of the appellant.

The Tribunal had gone wrong in rejecting the evidence. The Tribunal had noted the evidence led before it and paras 31 and 32 of the award read as under:-

> *"31. RW-2 Sahil Bagga, Clerk, Office of DTO, Mansa deposed that he has brought the record from 28.11.1998 to 7.12.1998, as per which license No. 1174 of Goral Lal son of Atma Ram, which was renewed for the period 4.1.1993 to 5.10.1998 as per entry Ex. R1. He also proved entry No. 18170 of 4.11.1998 as per which license aforesaid license was renewed for the period 19.11.2004 to 4.11.2008 and then it was renewed for the period 4.11.2011 to 4.11.2013. Relevant entries are Ex. Rs and Ex. R3.*
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> *32. From the perusal of the file, I find that the present accident took place on 2.10.2011. Copy of driving license of respondent No. 1 is Ex. R2. As per arguments of the learned counsel for the respondents that license was renewed after a span of time which is not proved on record. As such, this issue be decided in favour of the insurance company.*

The above would show that the licence had expired on 4.11.2008. It was renewed after three years much after the date of the accident. At the time of the accident the driver did not have any licence and therefore, the insurance company was entitled to recovery rights.

The appeal is allowed. The amount paid by the insurance company can be recovered from the owner-driver by filing an execution petition.

(ANITA CHAUDHRY)
JUDGE

December 06, 2017
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : Yes