

212 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-3099-2014

Date of decision: 15.09.2017

Bajaj Allianz General Insurance Company Ltd.

.... Appellant

Versus

Lakhan Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Lalit Kumar, Advocate for
Mr. Ashwani Talwar, Advocate
for the appellant.

MrAnil Shukla, Advocate
for respondents No.1 to 3.

Mr. Ravi Malik, Advocate
for respondent No.4.

Avneesh Jhingan, J.

The present appeal has been filed against the award dated 10.03.2014 passed by Motor Accidents Claims Tribunal, Palwal (hereinafter referred to as the 'Tribunal').

The facts relevant for decision of the present appeal are being noted below:

On 16.05.2009 Devender, aged 25 years, lost his life while his motorcycle bearing registration No.UP-85R-4417 was hit by Tata-407 bearing registration No.HR-38J-5134 (for short, 'the offending vehicle'). The offending vehicle was driven rashly and negligently. In the accident, Devender suffered multiple grievous injuries and was taken to Om Hospital, Palwal. From there, he was taken to AIIMS, New Delhi. On the way, he succumbed to injuries. An FIR

No.167 dated 17.05.2009 under Sections 279, 337 and 304-A of IPC was registered at Police Station Sadar, Palwal.

The claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'), was moved by the widow and the parents of the deceased. The claimants claimed compensation of `10 lacs. It was claimed that he was working as Assistant Driver in TFO Department in M/s Orient Syntex, Bhiwadi, District Alwar (Rajasthan). It was further claimed that he was having monthly salary of `4,732/-.

The Tribunal, after considering the witnesses and evidence, awarded a sum of `7,11,480/- along with interest at the rate of 7% per annum. The amount of `10,000/- was awarded for loss of consortium, loss of estate and last rites respectively.

Aggrieved of the said award, the present appeal has been filed by the Insurance Company on the issue that the driving licence was fake and it is not liable to pay the awarded compensation.

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

Learned counsel for the appellant has argued that the driving licence produced as Ex.RX was a fake licence and hence Insurance Company is not liable to pay the compensation amount. He has relied upon the statement of RW2 Yashpal Singh, Licencing Clerk, RTA Office, Mathura. He has specifically in his statement stated that driving licence was fake.

Learned counsel for the respondent relied upon the said statement that it has been stated that he was working in I.A.Agra and was transferred to I.A.Mathura. He further stated in this very statement when it is stated driving licence issued was valid. He further states that initially the driving licence was

issued for motorcycle and light motor vehicle and the same was endorsed w.e.f. 12.02.2009 to 11.02.2012 for heavy transport vehicle.

I have learned counsel for the appellant and have also seen the statement of RW2 Yashpal Singh, Licencing Clerk, RTA Office, Mathura.

The reading of the entire statement and the cross-examination brings out a sketchy picture. He starts with a statement that the said licence was in the name of Puran Singh. In the cross-examination he stated that he had not brought the record. The cross examination was deferred, on the next date on the basis of record produced, he stated that driving licence is valid and the same has been endorsed for heavy vehicle also. Thereafter, he states that the earlier record brought by him was a fake register handed over by one Jagdish Rawat. He was given receipt book in which there was no receipt of the renewal fee. He states that the receipt book does not contain the seal and signatures of any authority.

In view of the above, it would be appropriate if the matter is remanded back to the Tribunal to deal with the issue of validity of driving licence. Let the Tribunal look into this issue after providing due opportunities to both the parties. Both the parties are directed to appear before the Tribunal on 24.10.2017. This remand would not effect the compensation or the enhanced compensation. The matter is very old and it is directed that the same be decided expeditiously.

(AVNEESH JHINGAN)
JUDGE

15.09.2017

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1. Whether the order is speaking/reasoned: Yes

2. Whether the order is reportable : No