

In the High Court of Punjab and Haryana at Chandigarh

FAO- 4574 of 2013(O&M)

Date of Decision:6.10.2017

Iqbal Singh

---Appellant

vs.

Smt. Kastoori and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: None for the appellants

Mr. Deepak Suri, Advocate
for respondent No. 5-insurance company

Rekha Mittal, J.
CM No. 20543-CII of 2017

Heard.

Allowed as prayed for. Affidavit of Sh. J.K.Bansal, Senior Branch Manager, New India Assurance Company Limited is taken on record.

FAO- 4574 of 2013

The present appeal has been directed against the award dated 25.10.2012 to the limited extent whereby issue No. 4 “*whether Iqbal Singh, driver of the offending vehicle was not holding any valid and effective driving licence at the time of alleged accident and violated the terms of insurance policy? OPR-3*” has been answered in favour of the insurance company and the insurer has been held entitled to recover the amount of

compensation from driver of the offending vehicle i.e. Indica Car No. PB-10-AV-3974 after satisfying the award towards the claimants.

Counsel for respondent No. 5 (respondent No. 3 therein) has fairly informed that the appellant (driver of the offending vehicle) placed on record the driving licence (Annexure A-1) and on verification, the same has been found to be genuine. It has further been informed that the driver namely Iqbal Singh was competent to drive the vehicle in question on the basis of driving licence (Annexure A-1).

I have heard counsel for respondent No. 5, perused the affidavit of Sh. J.K.Bansal, Senior Branch Manager, New India Assurance Company Limited wherein it has been stated, reads thus:-

“That I confirm that driving license No. 57865 issued in favour of S. Iqbal Singh S/o Gurcharan Singh, R/o Village Hathur, Tehsil Jagraon, District Ludhiana issued by DTO Office Mansa, Valid for Scooter / Car / LMV Only for the period of 02.06.2005 to 01.06.2008 has been found as valid as per verification report of Sh. Jeevan Kumar Garg (BE) Asik Ashiana Back Side Bus Stand, New Court Road, Mansa.”

Indisputably, the accident in question took place on 21.4.2007. As per verification report, Iqbal Singh appellant/driver of the offending vehicle was holding a valid licence to drive the car in question on the date of accident. In this view of the matter, findings of the Tribunal that Iqbal Singh was not possessing a valid driving licence at the time of occurrence cannot be allowed to sustain and accordingly set aside. As a natural

corollary, right of recovery given to the insurance company against owner of the offending vehicle cannot be affirmed. Accordingly, issue No. 4 is answered against the insurance company and in favour of the appellant, owner of the vehicle and claimants.

No other point has been raised.

For the foregoing reasons, the appeal is partly allowed. The insurer of vehicle No. PB-10-AV-3974 shall be jointly and severally liable to pay compensation without any right of recovery against the insured.

As the appeal has been decided on merits, the application for condonation of delay is of academic relevance only.

(Rekha Mittal)
Judge

6.10.2017
paramjit

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No