

FAO No. 5252 of 2013 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 5252 of 2013 (O&M)

Date of Decision:31.10.2017

Surender Kumar Singh and another

.....Appellants

Versus

National Insurance Company and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Gopal Sharma, Advocate
for the appellants.

Mr. Aman Dhir, Advocate
for respondent No.1-Insurance Company.

AVNEESH JHINGAN, J.

The owner of Truck-Canter bearing registration No.HP-62-A-1711 has filed the present appeal being aggrieved of the award dated 5.8.2013 passed by the Motor Accidents Claims Tribunal, Panchkula (for short 'the offending vehicle') giving recovery rights to the Insurance Company.

Two issues are involved in the present appeal are:

Firstly, "whether the Insurance Company has discharged its onus that the driving licence held by the driver at the time of accident was fake?".

Secondly, if answer to the first question is "Yes", then "whether the owner of the vehicle has discharged his onus of proving that he satisfied himself with regard to the licence and the driving skill of the driver?".

The contention raised by learned counsel for the appellants is that the Insurance Company has relied upon the statement of their Manager

RW-1 I.K. Raina. Neither the record was summoned from the R.T.O. Mokokechung, Nagaland nor any official was examined. In support of his contention, learned counsel relies upon the decision of this Court reported as *Surjan Ram Versus Anchal Singh (died)* 1997(3) RCR (Civil) 670.

Learned counsel further argued that before hiring the service of driver, he had prima-facie satisfied himself that he was holding a licence and was able to drive the vehicle and to substantiate that, he himself appeared as RW2.

Learned counsel for the Insurance Company opposed the contention.

In the present case, since both the issues relate to a factual aspect for which necessary material would have to be produced and gone into. In such circumstance, without expressing any opinion on the merits of the case, the present appeal is disposed of and the matter is remitted back to the Tribunal only to the extent to decide the two issues framed above.

Both the parties would be at liberty to adduce evidence or to produce witnesses in support of their case.

Parties are directed to appear before the Tribunal on 22.12.2017. The Tribunal will also look into the issue of the statutory amount deposited for appeal.

31.10.2017
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No