

In the High Court of Punjab and Haryana at Chandigarh

F.A.O No. 4188 of 2015 (O&M)
Date of Decision: 08.5.2017

National Insurance Company Ltd.

.....Appellant

Versus

Pohli Devi and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Aseem Aggarwal, Advocate
for the appellant.

Respondents No. 3 and 4 ex parte.

ANITA CHAUDHRY, J

This appeal is by the insurance company seeking recovery rights as the driver did not have the licence to drive the truck on the date of the accident.

Counsel for the appellant urges that the accident had taken place on 24.4.2012 and two vehicles were involved and liability was placed upon both the driver-owner and insurance company jointly and severally and they are the insurer of truck No. HR-64-6969 which was driven by Surjit Singh. It was urged that the claimants had summoned the Ahlmad who brought the summoned record and stated that there were two original driving licences on the record and with respect to Surjeet Singh's licence it was stated that it was valid upto 5.1.2009 and the driver was authorized to drive a scooter and LMV whereas the driver was driving a truck and, therefore, recovery rights should have been granted to them. The counsel further submits that the driver-owner were being represented by a counsel

but later when the case was being adjourned for their evidence, they absented and allowed themselves to be proceed *ex parte*. Counsel further submits that the Motor Accident Claims Tribunal, Panipat ignored the evidence available on record.

Raju Pandey PW-3 Ahlmad in the Court of Judicial Magistrate Ist Class, had brought the summoned file titled '*State versus Surjeet and Satpal*' and had made the following statement:-

“The case is fixed for 12.11.2013 for prosecution evidence. Original driving licence bearing No. 86731/C dated 6.1.2006 issued by Licensing Authority, Patiala in the name of Surjeet Singh son of Bansi Lal, resident of Guru Nanak Nagar, Street No. 2, Patiala (Punjab) valid upto 5.1.2009 authorizing him to drive scooter, LMV only is attached with the judicial file. Similarly, original driving licence no. 1119940053969 dated 22.8.1994 in the name of Satpal son of Partap Singh, resident of House No. D-109, Yadav Nagar, Delhi valid upto 10.9.2012 authorizing him to drive TRANS is also attached with the judicial file.”

A reading of the above would show that Surjeet was holding a licence to drive a scooter and LMV and it was the original driving licence which was available. No other licence was produced by the owner driver and they failed to contest the petition. The witness had stated that the validity of the licence was only upto 5.1.2009. The accident had taken place on 24.4.2012. Therefore, it was clear that Surjeet Singh did not have a valid driving licence and the licence had expired. Surjeet Singh could not drive a truck and there was no endorsement and he could only drive a scooter or a light motor vehicle. Therefore, in view of this, the insurance company should have been allowed recovery rights. The Tribunal had ignored the evidence and had passed an order against the appellant.

The award is modified and the appellant is allowed recovery rights. They would pay the amount to the claimants and then recover the same from respondents No. 3 and 4.

The appeal is allowed in the terms above.

(ANITA CHAUDHRY)
JUDGE

May 08, 2017
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	Yes