IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 3223 of 2016 (O&M)
Date of decision: 17.08.2017

Iffco Tokio General Insurance Company **...Appellant**

Vs.

Neelu Gupta and Ors. **...Respondents**

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ankur Gupta, Advocate
for the appellant.

Mr. Ashwani Arora, Advocate
for respondent No. 1.

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RITU BAHRI, J.(ORAL)
C.M.No. 1541-CII of 2017

Heard.

For the reasons mentioned therein, the application is allowed. Delay of 7 days in re-filing the appeal is hereby condoned.

FAO No. 3223 of 2016

Present appeal has been filed by the appellant-Iffco Tokio General Insurance Company Ltd. against an Award dated 03.02.2016, passed by the Motor Accident Claims Tribunal, Chandigarh(hereinafter referred to as 'the Tribunal'), whereby the claimants have been awarded a compensation of ₹14,33,000/- on account of injuries sustained in a road side vehicular accident.

On 17.10.2014, the claimant was going along with Sushma from Ram Darbar to Baltana while driving her Scooter. At about 3:30 p.m., when they stopped at the Airport light point, at that time, one truck bearing registration No. HR-68-3781 came there from back side. It was being driven by respondent No.1 in very rash and negligent manner. It struck against their scooter. As a result of which, deceased Sushma and Neelu Gupta received serious injuries. They were taken to GMCH-32, Chandigarh from where Sushma was referred to PGI, where, she died on 23.10.2014. A formal FIR Ex.P43 has been recorded regarding this incident.

On notice, joint written statement has been filed by respondents No. 1 and 2 taking the plea of objections with respect to maintainability of the claim petition. They have claimed that accident was caused due to fault of Neelu Gupta.

A separate written statement has been filed by respondent No.3/Insurance Company taking the objection with respect of falsehood of claimants: maintainability of petition; valid driving licence of respondent No. 1.

From the pleading of the parties, following issues were framed:-

1. Whether accident dated 17.10.2014 resulting in injuries to claimant occurred on account of rash and negligent driving of vehicle no. HR-68-3781 by respondent No. 1?OPP.
2. Whether the claimant is entitled to compensation for injuries suffered by him, if so, to what extent and from whom?OPR.
3. Whether the driver of offending vehicle was not holding a valid & effective driving license on the date of accident and the vehicle was being driven in violation of the terms and conditions of the insurance policy?OPR3.
4. Relief.

The finding on issue No. 1 has been given by the leaned Tribunal in favour of claimant. As registration of FIR (Ex.P43), Post Mortem Report (Ex.P3), was sufficient evidence to show that the accident was caused due to rash and negligent driving by respondent No. 1 and she was taken to GMCH Hospital, Sector 32, Chandigarh, where she was referred to PGIMS, Chandigarh, where she died on 23.10.2014.

The plea taken by the Insurance Company before the learned Tribunal is that the alleged accident took place due to negligence of the claimant herself and respondent No.1 has not at fault while driving his truck. A false case has been registered against respondent No. 1.

The compensation has been assessed and granted to the claimant-injured as under:-

Sr. No.	Heads of compensation	Amount
1	Loss of Future Income	₹9,60,000/-
2	Loss of salary for one year	₹3,00,000/-
3	Disability	₹60,000/-
4	Special Diel	₹20,000/-
5	Attendant	₹20,000/-
6	Pain and Suffering	₹25,000/-
7	Transportation	₹15,000/-
8	Medical Bills	₹32,408/-
9	Grand Total	₹ 14,32,408/-

The insurance company has challenged the abovesaid Award on the ground of the evidence to show that the driving licence (Ex.R1) of respondent No. 1 was fake at the time of accident which was valid upto 22.12.2016. As per Public Information from Government of Nagaland (Annexure A-2) no information has been sought by respondent-Insurance Company. He produced one order passed by Govt. of Nagaland, which provides that driving licences were to be issued on Smart Card whereas licence of respondent No. 1 was not so but as it had not been proved on record that said licence was fake, thus, respondent No. 3 could not be absolved from liability from paying amount of compensation. Moreover, there were no reports from the DTO was produced in which driving licence (Ex.R1) was held as "Fake". As such with regard to validity of the driving licence cannot be interfered by this Court.

After going through the Award of the learned Tribunal, there is no infirmity in the findings recorded with regard to cause of accident and compensation assessed and finding with regard to validity of driving licence. The present appeal is dismissed as such.

(RITU BAHRI)
JUDGE

August 17, 2017
Poonam (II)

Whether speaking/reasoned Yes
Whether reportable No