

FAO No. 6438 of 2016 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 6438 of 2016 (O&M)

Date of Decision: 30.11.2017

Pardeep alias Goliya

..... Appellant

Versus

Vikas and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. S.K. Yadav, Advocate
for the appellant.

Ms. Vandana Malhotra, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J.

The present appeal has been filed by the driver-cum-owner of offending vehicle No. HR-47-C-7553 (earlier having temporary No. HR-99-NL-TEMP-5874).

The grievance raised in the present appeal is that the driver-cum-owner was possessing a valid driving licence, inspite of that the insurer of the offending vehicle was exonerated and liability was fixed on the owner-cum-driver.

The bare facts necessary for adjudication of the present appeal are that on 7.10.2014, a small kid named Yash Kumar alias Meenu was hit by the offending vehicle which was being driven in a rash and negligent manner. Due to the injuries suffered in the accident, the child lost his life on the way to hospital. FIR No. 234 dated 7.10.2014 was registered at Police Station Khol.

The claim petition under Section 166 of the Motor Vehicles

Act, 1988 (for short 'the Act') was filed by the unfortunate parents. The

Tribunal awarded a sum of Rs.5,60,000/- alongwith interest at the rate of 7.5% per annum.

The Tribunal held that the driving licence Ex.R2 (driving licence was not on smart card) held by respondent No.1 was not valid. The Tribunal relied upon the RTI Information Ex.R8 where it was mentioned that the licence was issued by the Motor Vehicles Department, Nagaland, but it would be treated as cancelled as it was not on Smart card.

Learned counsel for the appellant argued that there is another verification report dated 15.4.2016 which verifies the driving licence Ex.P1. He further relies upon the licence on smart card issued on 15.4.2016, according to which the said licence is valid for LMV from 20.7.2010 upto 19.7.2030. He has placed on record the verification report of licence dated 15.4.2016.

Learned counsel for the Insurance Company submitted that the licence will have to be verified again to the effect that licence was valid at the time of accident as smart Card has been produced in the appeal only.

Keeping in view the facts of the case, without expressing any opinion on the merits of the case, the matter is remanded back to the Tribunal, only qua fixing the liability.

The parties would be at liberty to adduce fresh evidence in support of their case.

The accident is of the year 2014 and the liability of owner-cum-driver was fixed which was stayed by this Court while issuing notice of motion. The net result is that the claimants have not been paid even a single penny. It is not disputed that the offending vehicle was duly insured with respondent No.3 (in appeal). In such circumstance to balance the equity, it is

directed that the claimants would be reimbursed the compensation by the Insurance Company subject to the decision of remand proceedings.

Parties are directed to appear before the Tribunal on 10.1.2018.

The statutory amount deposited for filing of appeal be remitted back to the Tribunal which would be subject to decision of remand proceedings.

Copy of the order be sent to the claimants also.

30.11.2017
reema

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No