

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: March 02, 2017

1. FAO-26-2017

DEVENDER SINGH

....APPELLANT...

VERSUS

ROYAL SUNDRAM AND OTHERS

....RESPONDENTS...

2. FAO-7509-2016

DEVENDER SINGH

....APPELLANT...

VERSUS

ROYAL SUNDRAM AND OTHERS

....RESPONDENTS...

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Rajesh Lamba, Advocate,
for the appellant(s).

JASPAL SINGH, J.

By virtue of this common judgment, this Court intends to dispose of two appeals bearing FAO No.26 of 2017, titled as “*Devender Singh vs. Royal Sundaram Alliance Insurance Co. Ltd. and others*” and FAO No.7509 of 2016, titled as “*Devender Singh vs. Royal Sundaram Alliance Insurance Co. Ltd. and others*”, as both these appeals are out-come of one and the same award dated 05.09.2016 passed by the Motor Accident Claims Tribunal, Faridabad (for short “the Tribunal”) and common question is involved for its determination.

2. Both these appeals have been preferred by appellant-Devinder Singh, owner of the offending vehicle i.e. Trola bearing registration No.HR-63A-4555, aggrieved against the recovery rights granted to respondent No.1-Insurance Company vide award dated 05.09.2016.

3. The main question which requires determination is whether the driving license held by respondent No.4-Ram Parsad (driver) at the time of alleged accident is legal, valid and genuine and has been issued by the competent licensing authority.

4. The contention of learned counsel for the appellant(s) is that respondent No.4-Ram Parsad was having a valid and effective driving license at the time of accident, who appeared in the witness box as RW-1 and has placed on record his driving license Ex.R4 besides other documents i.e. fitness certificate of the offending vehicle, copy of insurance policy, route permit and registration certificate. Though, he has been thoroughly cross-examined by the respondents but nothing could be extracted from him to show that the driving license is a forged and fabricated document or that it is not legal, valid and effective. The ld. Tribunal while passing the award and granting the recovery rights to the insurance company-respondent No.1 has failed to appreciate that the driving license Ex.R4 is a genuine one and has been relied upon by the appellant in the written statement. On the strength of only a single line in cross-examination of RW-1 that he never resided in the State of Nagaland, recovery rights have been granted to the Insurance Company, which is otherwise against the settled proposition of law. The vehicle bearing registration No. HR-63A-4555 is duly insured with the insurance company-respondent No.1 and it is the liability of the insurer to indemnify the insured i.e. appellant.

5. Learned counsel for the appellant further contends that no verification report has also been called by the Id. Tribunal from the Licence Issuing Authority before fixing the liability upon the appellant for the payment of the amount of compensation awarded to the claimants.

6. This Court has given a deep thought to the aforesaid submissions made by learned counsel for the appellant but does not find any legal and factual force therein.

7. No doubt, an additional plea was taken by appellant and respondent No.4 that if Tribunal comes to the conclusive result for passing compensatory award in favour of injured then respondent No.1 is/was valid driving license holder issued by licensing authority and the vehicle in question is insured by respondent No.3. Therefore, the award if any, shall be satisfied by respondent No.3 itself. Yet, it was incumbent upon the appellant to prove that the driving license held by respondent No.4-Ram Parsad was valid and effective at the time of accident, which he has miserably failed to prove. The statement of Ram Parsad- respondent No.4 is relevant to determine the genuineness or validity of the driving license and he can not wriggle out from the various admissions suffered by him during his cross-examination. While subjecting to cross-examination, he has categorically admitted that he has obtained Aadhar Card at his residential address i.e. House No. 111, Village Jharsently, Sector 58, Faridabad. It has also been admitted by him that he never resided in the State of Nagaland from where driving license was issued and further that he is a permanent resident of Nepal. Not only this, it has been categorically admitted by him that he never appeared before the Nagaland Licensing Authority at any point of time. Thus, it can be safely inferred that since respondent No.4-Ram

Parsad never resided in the State of Nagaland, thus, the driving licence Ex.R4 can not be termed to be a legal and genuine one.

8. In case, *“Manjit Kaur vs. H.S. Atwal”, 2013-1 PLR 267 (P&H)*, this Court was dealing with similar situation wherein the driving license was said to have been issued by DTO, Guwahati, Assam. When the driver of the offending vehicle was cross-examined, he has stated that he did not know where Guwahati was situated and that all what he knew was that it was in India. He has also admitted that he did not ever appear before the Licensing Authority, Guwahati at all and Court came to the conclusion that the license stated to have been secured from Guwahati was not a genuine one.

9. The instant case is squarely covered by the observations made in *Manjit Kaur's case* (supra). In the instant case also, driving license Ex.R4 was stated to have been issued by Licensing Authority, Nagaland where respondent No.4-Ram Parsad never resided. He never visited Nagaland for obtaining the driving license. Rather, he is a permanent resident of Nepal. Thus, it can be said that when he never visited Nagaland for obtaining license or never resided there how he could get or obtain a valid driving license from the Regional Transport Authority, Nagaland, that too, authorising him to drive heavy transport vehicle. Thus, this Court is of the considered view that the Id. Tribunal has rightly concluded that the driving license Ex.R4 is nothing but a fake and forged one. The recovery rights have also been rightly granted by Id. Tribunal to the Insurance company-respondent No.1. There is no infirmity, illegality or perversity in the findings recorded by the Id. tribunal as well as grant of recovery rights to the Insurance Company-respondent No.1.

10. In the light of what has been discussed above, this Court does not

find any merit in both these appeals. As such, the same are dismissed whereby the impugned award dated 05.09.2016 is upheld.

11. No order as to costs.

March 02, 2017
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(JASPAL SINGH)
JUDGE

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