**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH**

**FAO No.5346 of 2017**
**Date of Decision.02.12.2017**

Oriental Insurance Company Limited .......Appellant

Vs

Ravi and others ........Respondents

2. **FAO No.5347 of 2017**

Oriental Insurance Company Limited .......Appellant

Vs

Kailash Sharma and others ........Respondents

**CORAM:HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. Vinod Chaudhri, Advocate
for the appellant.

-.-

**AMIT RAWAL J.(ORAL)**

**C.M. No.16768-CII of 2017 in FAO No.5346 of 2017**
**C.M. No.16772-CII of 2017 in FAO No.5347 of 2017**

For the reasons stated in the applications, delay of 32 days in filing the respective appeals is condoned.

Applications are allowed.

**Main cases**

This order of mine shall dispose of two appeals bearing Nos.5346 and 5347 of 2017 against the finding rendered by the Tribunal in respect of an accident occurred on 27.01.2016 wherein the injured-claimants had preferred the claim petitions, which have been allowed along with claim petitions of other similarly situated persons but the insurance company preferred appeals in aforementioned two cases only.

Mr. V. Choudhri, learned counsel appearing on behalf of the appellant-insurance company submits that the driving licence of driver namely Sabbir son of Ibrahim resident of Bades, Tehsil Firozpur Jhirka, District Mewat was allegedly issued by DTO Tuensang, Nagaland. The driving licence report received from DTO Tuensang, Nagaland containing 8 pages was tendered as Ex.R6, which shows that the driving licence was fake. Even the owner of the vehicle had not taken measures for verifying the genuity or otherwise of the driving licence to seek protection as per the finding rendered by the Hon'ble Supreme Court in ***National Insurance Co. Ltd. Vs. Swaran Singh and others (2004) 3 SCC 297*** and ***Pepsu Road Transport Corpn. v. National Insurance Co., (2013) 10 SCC 217***.

Any sane person would make a reasonable enquiry particularly when the driver is a resident of Haryana and the driving licence issued from Nagaland, which the owner failed to do. All these factors ought to have weighed in the mind of the Tribunal while dealing with the controversy, thus, urges this Court for modification of the award on the issue of liability.

I have heard learned counsel for the appellant and appraised the paper book. The report Ex.R6 has not been proved on record in accordance with law. Mere exhibition of document does not dispense with its proof, in view of the law laid down by the Hon'ble Supreme Court in ***Sait Tarajee Khimchand And Ors. vs Yelamarti Satyam Alias Satteyya and others AIR 1971 SC 1865.*** It was incumbent upon the insurance company to summon the witness from DTO Tuensang, Nagaland or seek appointment of the local commissioner for the purpose of examination and cross-examination in respect of the report issued by the concerned DTO Tuensang, Nagaland. The owner when appeared in the witness box categorically stated that by looking at the driving licence it appeared to be a genuine one, despite the fact that the same was issued by DTO Nagaland. Even for the sake of arguments, it is assumed that the driver did not visit Nagaland for obtaining driving licence but the fact remains that the onus to prove the genuineness or otherwise of the same is upon the insurance company, which failed to discharge the same.

Keeping in view the aforementioned fact, I am of the view that the finding rendered by the Tribunal cannot be faulted with. No ground for intereference is made out. Both the appeals stand dismissed.

**(AMIT RAWAL)**
**JUDGE**

**December 02, 2017**
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No