

**111 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No.5938 of 2017 (O&M)

Date of Decision: September 11, 2017

Amandeep Singh

..... Appellant

Versus

Jagir Kaur and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Raj Kumar Chandana, Advocate
for the appellant.

DEEPAK SIBAL J. (ORAL)

CM No.19171-CII of 2017

For the reasons stated in the application, the delay of 190 days in filing of the appeal is condoned.

CM stands disposed of.

FAO No.5938 of 2017 (O&M)

The present appeal has been instituted by the driver and owner of truck bearing registration No.RJ-31GA-5542 (for short the 'offending vehicle') to challenge therein the award by the Motor Accident Claims Tribunal, Sri Muktsar Sahib (for short 'the tribunal').

Respondents No.1 to 7 had filed a petition before the tribunal under Section 166 read with Section 140 of the Motor Vehicle Act, 1988 seeking therein compensation on account of death of Pritam Singh, who was stated to have died as a result of an accident, which took place on 30.01.2014 due to the rash and negligent driving of the offending vehicle by the appellant.

The case set up by respondents No.1 to 7 before the tribunal was that on 30.01.2014, deceased-Pritam Singh along with his son Balwant Singh had gone to village Malout. At about 02.00 p.m. when Pritam Singh and his son Balwant Singh were coming on their bicycles from village Malout to City Malout and reached on the G. T. Road, the offending vehicle, which was being driven by the appellant rashly and negligently run over Pritam Singh, who as a result of such accident, died at the spot.

The appellant appeared before the tribunal and denied the accident. He further submitted that he had been falsely implicated in this case just to get compensation. Respondent No.8-Insurance Company filed a separate reply through which it was submitted that the appellant did not hold a valid driving licence at the time of the accident and that Pritam Singh had died because of being run over by the offending vehicle which was being driven by the appellant in a rash and negligent manner.

After recording a finding that Pritam Singh had died in the accident caused due to the rash and negligent driving by the appellant, the tribunal further went on to conclude that the appellant was neither holding a valid driving licence nor a valid route permit to ply the offending vehicle in the State of Punjab and therefore inspite of the fact that the offending vehicle was insured, it was the appellant, who was liable to pay to the claimants the determined compensation. The relevant findings of the tribunal in this regard are as under:-

“12. Driving licence No.8937/MTR/07 is shown to have been issued by Registering Authority, Mathura and has been renewed from 02.08.2012 to 01.08.2015 by DTO Office,

Faridkot. When report from Registering Authority, Mathura was called through Secretary, District Legal Services Authority, Sri Muktsar Sahib, it was found that the driving licence at serial No.8937 MTR 07 has been issued in the name of Khalid son of Girdhari on 25.6.2007.

Thereafter, respondent No.1 submitted that driving licence was issued to him at another No.8537/MTR/07. Verification report of that number was also called and as per document Ex. RX, the same is shown to have been issued in the name of Gopal Singh son of Madho Ram resident of Nagla Tader, Sonkh Khera, Mathura. So, the driving licence relied upon by respondent No.1 has not been issued by Registering Authority and is fake driving licence. The Hon'ble Punjab & Haryana High Court in **New India Assurance Company Ltd vs. Narender Singh & Ors 2010 (Suppl.) CCC 204** has held that fake driving licence, if subsequently renewed would not absolve the owner from the liability to pay compensation to claimant and Insurance Company cannot be held liable. The Hon'ble High Court has relied upon law laid down by Hon'ble Apex Court in **New India Assurance Co. v. Kamla & Ors. 2001 (1) Apex Court Journal 334 (S.C.), National Insurance Co. Ltd. vs. Laxmi Narain Dhut, 2007 (2) Apex Court Judgments 114** and has quoted para No.38 from Laxmi Narain Dhut's case as under :-

In view of the above analysis the following situations

emerge:

- 1. The decision in Swaran Singh case has no application to cases other than third-party risks.*
- 2. Where originally the licence was a fake one, renewal cannot cure the inherent fatality.*
- 3. In case of third-party risks the insurer has to indemnify the amount, and if so advised, to recover the same from the insured.*
- 4. The concept of purposive interpretation has no application to cases relatable to Section 149 of the Act.*

13. Ld. counsel for the respondent Insurance Company has further argued that in the present case, even respondent No.1 was not having valid route permit to drive within the area of State of Punjab. The route permit proved on record is mark R1 bearing No.RJ31/11135/2012 and the route area is entire Rajasthan. So, there is no route permit to ply the truck in the State of Punjab. In such a situation, the Hon'ble Punjab & Haryana High Court has held in **Jamil Khan and Anr vs. M/s Bajaj Allianz General Insurance Company Ltd and others 2012 (3) PLR 838** as under:-

There is another deficiency apparent in the form of route permit. The offending vehicle was being plied without such route permit which is again a violation of the terms and conditions of the insurance policy. Hon'ble the Supreme Court in National Insurance Co. Ltd. Vs. Chella Bharathamma, (2004) 8 SCC 517, has observed as under:-

“The High Court was of the view that since

there was no permit, the question of violation of any condition thereof does not arise. The view is clearly fallacious. A person without permit to ply a vehicle cannot be placed at a better pedestal vis-a-vis one who has a permit, but has violated any condition thereof. Plying of a vehicle without a permit is an infraction. Therefore, in terms of Section 149(2) defence is available to the insurer on that aspect. The acceptability of the stand is a matter of adjudication. The question of policy being operative had no relevance for the issue regarding liability of insurer. The High Court was, therefore, not justified in holding the insurer liable.”

14. In the present case also, when it is proved on record that driving licence of respondent No.1 is fake and he is not having valid route permit to ply the vehicle in the area where the accident took place, Insurance Company cannot be held liable to pay the claim to the claimants inspite of the fact that respondent No.1 has valid insurance policy. As such, this issue is decided in favour of respondent No.2.” *(emphasis supplied)*

No argument has been raised to challenge the findings recorded by the tribunal that Pritam Singh died in an accident caused due to the rash and negligent driving of the appellant. Only the fastening of the liability upon the appellant to pay the determined compensation, inspite of him having a valid insurance policy is assailed.

There is ample evidence on record to prove that the appellant's driving licence was fake. The appellant had initially projected that he was holding a driving licence No.8937/MTR/07 issued by the Registering Authority, Mathura which on verification was found to have been issued in the name of one Khalid. The appellant then changed his stand and submitted that he was holding a driving licence bearing No.8537/MTR/07 which too on verification from the Registering Authority, Mathura was found to have been issued in the name of one Gopal Singh. Subsequent renewal of a driving licence originally found to be fake would not cure its inherent defect.

Similarly, the route permit produced by the appellant bearing No.RJ31/11135/2012 authorized the appellant to ply his truck only in the State of Rajasthan and not in State of Punjab where the accident causing of death of Pritam Singh had taken place.

In view of the above violations of the insurance policy, inspite of the fact that the offending vehicle was validly insured, the tribunal rightly fastened the liability of payment of the assessed compensation upon the appellant. No infirmity is found in the findings returned by the tribunal warranting any interference.

Dismissed.

(DEEPAK SIBAL)
JUDGE

September 11, 2017

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No