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FAO No. 2482 of 1994
DECIDED ON: NOVEMBER 13, 2018

....APPELLANT

.....RESPONDENTS

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.....RESPONDENTS

Vide this common order, both the aforesaid appeals are being

disposed of, as both are arising out of same award. Since the facts of both the cases are same, hence to avoid repetition, the same are taken from FAO No. 2482 of 1994.

2. Both the aforesaid appeals are filed by the insurer of Truck bearing registration No. HR-05-7885 (hereinafter referred to as 'offending vehicle'), against the award dated 01.09.1994 passed by the Motor Accident Claims Tribunal, Sonapat (for short 'the Tribunal').

3. In a motor vehicular accident that occurred on 15.04.1992, Rajbir and Kuldeep lost their lives.

4. In the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act'), the Tribunal awarded a sum of ₹70,000/- each to the legal heirs of the deceased. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation.

5. The only grievance raised in the aforesaid appeals is that the driving licence purported to be issued by the Licensing Authority, Hyderabad was fake and subsequent renewal thereof, will not validate the same.

6. Nobody appears on behalf of the owner of the offending vehicle in spite of publication of notice.

7. From perusal of award, it is evident that the Tribunal proceeded on the basis that the driving licence issued by the Licensing Authority, Hyderabad was fake and the reliance was placed on Ex.R1. The Tribunal was influenced by the fact that subsequently, the driving licence was renewed by the Licensing Authority, Karnal. The Tribunal held that licence was subsequently validly

renewed, therefore, insurer is liable to pay compensation

8. The reasoning recorded by the Tribunal cannot be accepted. A fake licence would not become a valid by its subsequent renewal.

9. Reliance in this regard is placed upon the decision of Supreme Court judgment rendered in case of **New India Assurance Co. vs. Kamla; 2001 (4) JT 235**. The relevant para of the judgment is reproduced as under:

“As a point law we have no manner of doubt that a fake licence cannot get its forgery outfit stripped off merely on account of some officer renewing the same with or without knowing it to be forged. Section 15 of the Act only empowers any licensing authority to “renew a driving licence issued under the provisions of this Act with effect from the date of its expiry”. No licensing authority has the power to renew a fake licence and, therefore, a renewal if at all made cannot transform a fake licence as genuine. Any counterfeit document showing that it contains a purported order of a statutory authority would ever remain counterfeit albeit the fact that other persons including some statutory authorities would have acted on the document unwittingly on the assumption that it is genuine.”

10. From perusal of record and the award, it is evident that the insurance company produced Ex.R1 i.e. a letter from the Licensing Authority, Hyderabad to show that the licence was not issued by the said authority neither any record was summoned nor any official of the concerned authority deposed before the Tribunal to substantiate their claim. If this issue is decided in favour of the appellant, insurer would be entitled to recovery rights. In order to discharge the onus cast upon the appellant that the driver was not holding a valid licence at the time of accident, further evidence needs to be adduced apart from Ex.R1.

11. In the facts and circumstances of the case, the matter only with regard to liability to pay compensation, is remitted back to the Tribunal to decide afresh after affording an opportunity to the appellant, driver and owner of offending vehicle.

12. Both the appeals are disposed of, accordingly.

NOVEMBER 13, 2018
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(AVNEESH JHINGAN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>