

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

FAO No. 2855 of 2000(O&M)

Date of decision: 8.5.2018

The New India Assurance Co. Ltd.Appellant

VERSUS

Uma Rani and othersRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. V. Ramswaroop, Advocate for the appellant.

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against award dated 04.10.2015 passed by the Motor Accident Claims Tribunal, Jagadhri (in short 'the Tribunal') whereby compensation has been awarded on account of death of Tota Ram in a motor vehicular accident that took place on 05.06.1997 but the injured succumbed to injuries on 07.06.1997.

The sole submission made by counsel for the appellant is that as driving licence possessed by Suraj Bhan, driver of Mini Bus No.HR-37-3038 was found to be fake, the insurance company is entitled to be exonerated of liability to pay compensation or in the alternative right of recovery against the insured after payment of compensation to the claimants.

The Tribunal in para 28 has held by relying upon judgments referred to in the said para that the insured is not guilty of breach of terms and conditions of the insurance policy. Ayodhya Parsad RW-1 appeared in the witness box and testified with regard to employer of the driver having

seen the driving licence at the time of engaging Suraj Bhaj as a driver, therefore, there was no intentional breach of condition of insurance policy on the part of owner of the offending vehicle. When the present case is examined in the light of judgments of Hon'ble the Supreme Court **United India Insurance Co. Ltd. Vs. Lehu and others, 2003(2) RCR (Civil) 278** and **Pepsu Road Transport Corporation Vs. National Insurance Co. Ltd., (2013) 10 SCC 217**, it is difficult to accept contention of the appellant that the Tribunal committed an error or faulted in any manner by negating plea of the insurance company that the insured is guilty of violating the terms and conditions of policy merely because licence possessed by the driver was found to be fake. In this view of the matter, findings of the Tribunal on the question of driving licence are liable to be affirmed and ordered accordingly.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed. No order as to costs.

MAY 8, 2018
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no