

In the High Court of Punjab and Haryana at Chandigarh

**FAO No. 345 of 2000 (O&M)
Date of Decision: 4.5.2018**

The New India Assurance Company Limited

---Appellant

versus

Smt. Santosh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Paul S.Saini, Advocate
for the appellant**

None for respondents No. 1 to 5

Rekha Mittal, J.

CM No. 1980-CII of 2000

Prayer in this application is for condoning delay of 11 days in filing the appeal.

In view of averments made in the application and arguments advanced, application is allowed and delay of 11 days in filing the appeal stands condoned.

Disposed of accordingly.

FAO No. 345 of 2000

The present appeal directs challenge against award dated 1.10.1999 whereby compensation has been awarded on account of death of Bool Chand @ Bulli in a motor vehicular accident that took place on 20.8.1997.

Counsel for the insurance company would inform that the appeal has been filed to assail findings of the Motor Accidents Claims Tribunal, Jagadhari (in short “the Tribunal”) on issue No. 3 whereby plea of the insurance company that driver of the offending vehicle was not holding a valid licence on the date of occurrence has been negated by relying upon document Ex. R1. It is argued that Sandesh Kanwal owner of the vehicle appeared in the witness box and photocopy of driving licence of Sandeep was marked as Ex. R1. It is argued that the Tribunal has not appreciated document Ex. R1 and grossly erred by holding that Sandeep was holding a valid licence. It is further argued that driving licence Ex. R1 was issued in the year 1991 and the same was valid upto 3.5.1996. There is an endorsement of renewal of licence dated 11.5.1998 upto 10.5.2003 meaning thereby that driver did not have any licence from 4.5.1996 till 10.5.1998 and the date of accident falls in between on 20.8.1997. According to counsel, document Ex. R1 is sufficient to prove that driver of the offending vehicle did not have licence on the date of occurrence.

There is no representation on behalf of the respondents earlier being represented by a counsel.

I have heard counsel for the appellant, perused the paper book and records.

Perusal of document Ex. R1 produced on record by owner of the offending vehicle leaves no manner of doubt that driver of the scooter in question did not possess a licence to drive vehicle from May 1996 till May 1998, therefore, he did not have a licence to drive the vehicle on the date of occurrence i.e. 20.8.1997. As the driver did not possess a licence on the date of occurrence, the insured is guilty of violating the terms and

conditions of policy, thus insurance company would be entitled to right of recovery against the insured after payment to the claimants. As a consequence, findings of the Tribunal on issue No. 3 cannot be allowed to sustain and liable to be set aside.

No other point has been raised.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

4.5.2018

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No