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

FAO No.612 of 1999
Date of Decision.22.01.2018

National Insurance Company Limited ....Appellant

Vs

Gurdev Kaur and others ....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Gopal Mittal, Advocate
for the appellant.

Ms. Navjot Kaur, Advocate for
Mr. Vishal Gupta, Advocate
for respondent Nos.1 to 8.

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AMIT RAWAL J.(ORAL)

The appellant-insurance company is aggrieved of the impugned award rendered by the Tribunal rejecting recovery rights from the owner and driver, owing to the fact that the driving licence bearing No.14081/87 was not issued by the Licensing Authority, Una and therefore, the renewal effected from 22.04.1993 to 21.4.1996 from the office of DTO, Hoshiarpur cannot make the driving licence as valid. The another ground which has been taken is that the driver of the offending vehicle insured with the appellant-insurance company in the criminal case was reported untraced and therefore, there appears to be an apparent collusion, as his name was not reflected in the FIR.

Learned counsel appearing on behalf of the respondent-claimant submitted that the driver and owner had not put in appearance to deny the factum of accident, thus, urges this Court for dismissal of the appeal.

I have heard learned counsel for the parties and appraised the paper book. It is a burnt case. The statement of witness, RW5, Jiwan Kumar, Junior Assistant office of Registering and Licensing Authority, Una extracted in the grounds of appeal reads as under:-

> *"I have brought the summoned record. The licence No.14081/87 was not issued by our office in the name of Gurjeet Singh son of Nasib Singh. Shri H.N.P. Kaushal, Adv. had moved an application for verification of the above mentioned licence which is Ex.R-3 and report Licensing Authority, Una is Ex.R4, which is signed by Prem Kumar Sharma, Jr. Assistant on behalf of Licensing Authority, Una."*

It is evident that the original licence was issued in 1987 by the Licensing Authority, Una. As per the evidence brought on record, it was renewed by DTO, Hoshiarpur from 22.04.1993 to 21.4.1996. Therefore, a valid renewal cannot make a fake licence genuine in view of the ratio decidendi culled out by Hon'ble Supreme Court in ***National Insurance Company Limited Vs. Swaran Singh (2004) 3 SCC 297*** and ***Pepsu Road Transport Corpn. v. National Insurance Co., (2013) 10 SCC 217***,

Resultantly, the finding rendered by the Tribunal is modified to this extent. The insurance company shall be entitled to recover the amount of compensation from the owner and driver of the offending after satisfying the award.

As regards the negligence, I do not subscribe to the view and submissions of Mr. Gopal Mittal on the premise that specific averment was made in the claim petition with regard to accident, which though has been denied in the written statement but neither the owner nor the driver dared to step into the witness box to corroborate their version in the written statement, thus, an adverse inference is liable to be drawn against the owner and driver.

In view of the aforementioned, the appeal filed by the insurance company is partly allowed in the above terms.

(AMIT RAWAL)
JUDGE

January 22, 2018
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No