IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

205 **XOBJC-75-CII-2002 in/and**
FAO-913-2001 (O&M)
Date of Decision : 8.8.2018

Hussan Lal **....Appellant**

vs.

Maha Kant Yadav and others **....Respondents**

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Saurabh Kapoor, Advocate and
Mr. Sagar Aggarwal, Advocate for the appellant.

Ms. Shamsher Kaur, Advocate
for respondent No.-3-insurance company/Cross-Objector.

****

AJAY TEWARI, J. (Oral)

This appeal has been filed against the award dated 1.6.2000 passed under Motor Accident Claims Tribunal, Karnal awarding compensation of Rs. 15,000/- alongwith interest at the rate of 12% per annum on account of injuries sustained by the claimant in an accident.

Counsel for the appellant states that on account of having suffered fracture in 4th and 5th ribs of left side of chest only a sum of Rs. 15,000/- has been awarded which is highly inadequate. The Tribunal held that there was neither any proof of any hospitalization and any medical expenses nor there was any permanent disability .

In my opinion, the award does not call for any interference. The appeal stands dismissed.

XOBJC-75-CII-2002

Counsel for the cross-objector has argued that admittedly in the

Anuradha
2018.09.14 11:20
I attest to the accuracy and
integrity of this document

present case the license had expired on 19.4.1996 and thereafter it was renewed only next year on 14.3.1997 and thus on the date of accident, that is 16.1.1997, the driver did not have a valid license. As per her the judgment relied upon by the Tribunal ***Ram Phal vs. Krishna Makkar and others (1988-2) The Punjab Law Reporter 561*** wherein an expired license was held not to absolve the insurance company must be held no longer a good law and in the subsequent judgments of Supreme Court in the matters of ***"Ram Babu Tiwari v. United India Insurance Co. Ltd. and others"*** reported as ***2008 ACJ 2654, "Francisca Luiza Rocha and others vs. K. Valarmathi and Others"*** reported as ***2018(1) RCR (Civil) 409*** and ***"National Insurance Company Limited vs. Jarnail Singh and others"*** reported as ***(2007) 15 SCC 28.*** In all these cases the Supreme Court has held that in such a situation the primary liability to pay the compensation would be of the insurance company but it would have the right to recover the same from the owner.

In the circumstances, cross objection is allowed. It is held that though the cross objector-insurance company would be liable to pay the compensation in the first instance, it would be entitled to recover the same from the owner.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

8.8.2018
anuradha

Whether speaking/reasoned - Yes/No
Whether reportable - Yes/No

Anuradha
2018.09.14 11:20
I attest to the accuracy and
integrity of this document