IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

-.-

FAO 2975 of 2005 (O&M)
Date of decision: 24.05.2018

State of Haryana and another .... *Appellants*

Versus

Karkor and others ....*Respondents*

Coram: **Hon'ble Mrs. Justice Rekha Mittal**

-.-

Present: Mr. Vishal Kashyap, AAG, Haryana
for the appellants

Mr. R C Kapoor, Advocate
for respondent No. 5

-.-

Rekha Mittal, J. (Oral)

The present appeal directs challenge against award dated 27.01.2005 passed by the Motor Accidents Claims Tribunal, Hisar (in short, 'the Tribunal') whereby compensation has been awarded on account of death of Balwant out of use of Bus No. HR 39/0409 of Haryana Roadways, insured with the National Insurance Company Limited.

Counsel for the appellant would inform, at the outset, that appeal has been preferred to assail findings of the Tribunal qua driving licence Ex.R2 and giving right of recovery in favour of the insurer against respondents No. 1 and 2 (before the Tribunal).

The sole submission made by counsel for the appellant is that licence issued in favour of Sadhu Ram, driver of Bus aforesaid was valid upto 23.06.2000 and accident took place on 03.07.2000 i.e. within one month from the date of validity of the licence. It is argued that in view of proviso appended to Section 14 of the Motor Vehicles Act, 1988 (in short, 'the Act'), said licence would remain effective for a period of one month after its expiry. In support of his contention, he has relied upon judgment of the Allahabad High Court ***Oriental Insurance Company Limited vs. Smt. Santosh Kumari and others*** decided on 20.03.2018.

Counsel for the insurance company was directed to place on record a copy of insurance policy vide order dated 04.05.2018 but the same has not been produced. However, he is not in a position to defend arguments raised by counsel for the appellants in view of proviso appended to Section 14 of the Act, interpreted in the judgment of Allahabad High Court in *Santosh Kumari's* case (supra).

In this view of the matter, findings recorded by the Tribunal that driver of bus in question was not holding an effective licence on the date of accident cannot be allowed to sustain and liable to be set aside. As a natural corollary, right of recovery given to the insurer against respondents No. 1 and 2 (before the Tribunal) cannot be upheld.

No other point has been raised.

For the foregoing reasons, the appeal is partly allowed. The insurance company shall be jointly and severally liable to pay compensation without any right of recovery. No order as to costs.

(Rekha Mittal)
Judge

24.05.2018
mohan bimbra

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No