

202

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

**FAO No.2144 of 2006 (O&M)
Date of Decision: 13.12.2018**

United India Insurance Co. Ltd.

Appellant

Versus

Satya Rani and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Monika Jangra, Advocate for
Mr. Rajneesh Malhotra, Advocate
for the Insurance Company.

Mr. Sajid, Advocate
for respondents No.1 to 6.

AVNEESH JHINGAN, J (Oral):

The insurer of Tractor bearing registration No. HR-02G-0361 [hereinafter referred to as 'offending vehicle'] is in appeal against award dated 20.02.2006 passed by the Motor Accident Claims Tribunal, Yamunanagar at Jagadhri [for brevity 'the Tribunal']. The grievance raised is that no recovery rights have been granted to the petitioner as the driving licence was not validly renewed at the time of accident.

The record of this appeal was burnt and from the salvaged record of the partially burnt cases, the same was reconstructed subject to all just exceptions and further verification.

The original record of the case has also been burnt.

A motor vehicular accident took place on 02.12.2003. In the said accident, Raj Kumar lost his life. A claim petition under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'] was filed by the legal heirs of the deceased. The Tribunal after considering the facts and appreciating the evidence adduced, held that the accident was caused due to the rash and negligent driving of the offending vehicle. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal awarded a sum of ₹70,000/- alongwith interest @ 7.5% per annum.

Learned counsel for the appellant contends that the driver was not holding valid driving licence at the time of accident. The driving licence produced was valid from 09.04.1997 to 08.04.2002 and thereafter it was renewed for the period commencing from 11.11.2005 to 10.11.2010. She further argues that even after the renewal of the driving licence, it was not issued for driving a Tractor. She contends that recovery rights be granted to the insurer of the offending vehicle.

The contention raised by learned counsel for the appellant has been dealt with by the Tribunal. The insurer relied upon a report that driving licence was not issued for Tractor but was only for motor cycle, scooter, car and jeep only. The Tribunal found the report not worth reliance, as in the report no designation of the official was mentioned. The said report was not proved by deposition

of any witness. Moreover, the Tribunal relied upon the deposition of Kasturi Lal, Clerk of the Licensing Authority, who on the basis of the record, never stated that no licence for Tractor was issued.

In the present case, original record was burnt in a fire incident and the same is not available. Moreover, keeping in view the paltry amount of ₹70,000/-, no case is made out for interference in the findings recorded by the Tribunal.

The appeal is dismissed.

[AVNEESH JHINGAN]
JUDGE

December 13, 2018

pankaj baweja

- | | | |
|-------------------------------|---|---------|
| 1. Whether speaking/ reasoned | : | Yes/ No |
| 2. Whether reportable | : | Yes/ No |