

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

1. FAO No. 4940 of 2007

Rajbir Singh	Versus	...Appellant
Anil Kumar and others		...Respondents

2. FAO No. 307 of 2008

Dalip Singh	Versus	...Appellant
Rajender Singh and others		...Respondents

3. FAO No. 309 of 2008

Dalip Singh	Versus	...Appellant
Rajender Singh and others		...Respondents

4. FAO No. 310 of 2008

Dalip Singh	Versus	...Appellant
Rajender Singh and others		...Respondents

Date of decision:- 07.05.2018

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. K. Uardhav Verma, Advocate for
Mr. Rajeev Shoeran, Advocate
for the appellant in FAO No. 4940-2007 and
for respondent No. 2 in FAO No. 307, 309 and 310-2008

Mr. S.S. Dinarpur, Advocate
for the appellant in FAO No. 307, 309 and 310-2008

Mr. Surinder Gandhi, Advocate
for respondent Nos.1 to 3 in FAO No. 4940-2007

Ms. Shamsher Kaur, Advocate
for respondent-National Insurance Co.

RITU BAHRI J.

1. The above said four appeals, as noticed above, are being disposed of by this common judgment, having arisen out of the impugned

award dated 09.08.2007 passed by the learned Motor Accident Claims Tribunal, Bhiwani (for short the Tribunal)

2. Brief facts of the case are that on 05.06.2003, some persons were travelling in a jeep bearing No. HR-17-0911 being driven by Rajender Singh and when the jeep reached near the are of Lohani, a car bearing registration No. HR-19-1616 came from the opposite side and dashed against the jeep which turned turtle resulting into injuries to the persons of both car and jeep.

3. The learned Tribunal awarded the compensation to the claimants/injured and held that it was a case of contributory negligence and the Insurance Company of both the vehicles are liable to pay compensation i.e 50% each to the claimants. But since Rajender Singh (driver of HR-17-0911) was not holding the valid driving license, as Rajinder Singh was authorized to drive motorcycle and scooter only, therefore, the Insurance Company was given recovery rights to recover the amount from the owner i.e Rajbir Singh.

4. The only argument raised by learned counsel for the appellant-Rajbir Singh was that the driver i.e Rajender Singh was holding valid driving license at the time of accident. Reference has been made to Mark R1 and R2 whereby an amount of Rs.27890/- was paid to the National Company through the respondent/jeep onwer Rajbir Singh. He has further referred to Annexure R-5/1 whereby the Licensing Authority Loharu has clarified that the driver was authorized to drive jeep, tractor etc on 16.02.2011.

5. This argument is liable to be rejected, as the learned Tribunal has held that mere tendering of such photostat copies without production of

original forwarding letter or proving the genuineness of these documents by summoning the relevant file from Insurance Company cannot be taken to be true to hold that Rajinder Singh was holding the valid driving license. The said endorsement existing on the backside of photostat copy Ex R3 does not even mention as to which licensing authority has made this endorsement and on what date Rajinder Singh was authorized to driver the jeep and car etc. With regard to Annexure R-5/1, it has been clearly mentioned that the driver Rajinder Singh was authorized to drive motorcycle/scooter w.e.f 12.06.1996 to 10.04.2017 but later on an endorsement was made on 16.02.2011 to the effect that the driver Rajinder Singh was authorized to drive the car/jeep/tractor etc as well. But since the accident occurred on 05.06.2003 and on that date, the driver Rajinder Singh was not holding the valid driving license, thus, the appellant-Rajbir was rightly held to compensate the claimants, as the driver was not holding the valid driving license.

6. The argument raised by learned counsel for the appellant-Dalip Singh/injured that it was not a case of contributory negligence and the injured is entitled to full compensation, as the negligence was on the part of the driver of the jeep, who was driving rashly and negligently.

7. This argument is also liable to be rejected, as firstly the road was wide enough to enable two heavy vehicles to cross each other, as admitted by Dalip Singh in his cross examination. There was no other vehicle present on the road and thus, Dalip Singh could have avoided the accident. The learned Tribunal found Dalip Singh not attentive enough while driving his car as in his cross examination, he stated that he had

8. Reference at this stage can further be made to testimony of P.W.6 Anil Kumar who in his cross examination stated that he was following the car of Dalip Singh and he had noticed the jeep while coming in front from a distance of 80 yards. Thus, if the said Anil Kumar could notice on coming jeep from a distance of 80 yards there is no reason why the claimant Dalip Singh who was driving ahead of Anil Kumar in his own car could not notice the on-coming jeep. Thus, it was a clear cut case of contributory negligence.

9. In view of the discussion made above, all the four appeals are hereby dismissed being devoid of any merit.

07.05.2018

G Arora

(*RITU BAHRI*)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No