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

**FAO No.3811 of 2011 (O&M)
Date of decision: 12.01.2018**

Avtar Singh and another

….Appellants

Versus

National Insurance Company and another

….Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Harminder Singh, Advocate,
for the appellants.

Mr. Karminder Singh, Advocate,
for respondent No.1-Insurance Company.

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RITU BAHRI J. (Oral)

Avtar Singh and Surjit Singh-appellants (owner and driver of offending vehicle) have come up in appeal against the award dated 23.03.2011 passed by the Motor Accident Claims Tribunal, Amritsar (hereinafter referred to as 'the Tribunal'), whereby compensation of Rs.74,000/- has been awarded in favour of the claimant-respondent No.2 on account of injuries suffered by him in a motor vehicular accident which took place on 07.10.2002.

The appellants are not challenging the finding given by the Tribunal on issue No.1 that the accident had taken place on account of rash and negligent driving of the offending vehicle by its driver-Surjit Singh (respondent No.2 in claim petition), as FIR No.132 of 2002, under Sections 279/427/337 and 338 IPC was registered against him at Police Station, Gharinda. The challenge is to the finding given on issue No.3, where the insurance company-respondent No.1 has been absolved of its liability to make payment of compensation. AS per statement of Balraj Kaur, Clerk (RW-1), licence No.10672 dated 29.09.1992 had been issued in the name of Surjit Singh (driver) for scooter and it was valid upto 14.09.1999. The Tribunal had observed that Since the accident had taken place on 07.10.2002, the said licence was not valid.

I have heard learned counsel for the appellant and perused the case file.

Vide order dated 31.01.2014, an application for placing on record documents (Annexures A-1 and A-2) was allowed and the matter was remitted back to the Tribunal to re-examine issue No.3. The appellants were granted one effective opportunity to lead their entire evidence and the Insurance Company was granted two effective opportunities to lead any evidence, which it might deem appropriate. Pursuant to this order, a report dated 20.05.2014 has been received from the Tribunal, as per which, there was an endorsement on the original licence Ex.RX showing that it was renewed upto 18.01.2004. Balraj Kaur, Clerk, DTO, Amritsar (RW-1) had brought the summoned record and stated that licence No.10672 dated 29.09.1992 was issued in the name of Surjit Singh for scooter and car and was valid upto 14.09.1999. In her cross-examination, she stated that she had no personal knowledge, whether said driving licence was renewed after 1999 or not. As per report of MACT, original licence Ex.R was issued in favour of Surjit Singh and it was valid upto 18.01.2004. Hence, on the date of accident i.e. 07.10.2002, driver (Surjit Singh) was holding a valid driving licence. The aforesaid report is not being disputed by the insurance company.

Since the driving licence (Ex.RX) is not being disputed, it is held that on the date of accident, the driver of the offending vehicle was having a valid and effective driving licence. Therefore, the finding given by the Tribunal on issue No.3 are reversed/set aside and all the respondents i.e. owner, driver and insurance company are held liable to pay compensation to the claimant. Since the vehicle was insured on the date of accident, respondent No.1-insurance company will indemnify the award.

Resultantly, the impugned award is modified to the extent that the amount of compensation shall be paid by the Insurance Company-respondent No.1 only and it shall not recover the same from the owner and driver (appellants) of the offending vehicle.

Allowed in the aforesaid terms.

(RITU BAHRI)
JUDGE

12.01.2018
ajp

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