

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

F.A.O No. 1553 of 2012

Date of decision:- 07.03.2018

New Jawalaji Pathankot Transport

...Appellant

Versus

New India Assurance Co. Ltd. and ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Parveen K. Kataria, Advocate
for the appellant.

Mr. Suman Jain, Advocate
for respondent No. 1.

Mr.S.K. Bawa, Advocate
for respondent Nos. 2 to 4.

RITU BAHRI J.

The present appeal has been preferred by the appellants against the award dated 15.09.2010 passed by the learned Motor Accident Claims Tribunal, Gurdaspur (for short, 'the Tribunal') granting the recovery rights to the Insurance Company against the present appellant.

The learned Tribunal after going through the evidence led by the parties, awarded the compensation of Rs.20,53,938/- in favour of the claimants. However, the recovery rights were granted to respondent No. 3.

Learned counsel for the appellant submits that the onus to prove the validity of the driving license was on the Insurance Company who did not produce any evidence during the proceedings to the effect that the driver of the offending vehicle was not having the valid driving license. It is a settled law that recovery rights cannot be given to Insurance Company unless it proves by way of evidence that the driving license of the driver

was fake. Further even the issue regarding validity has been decided in favour of the claimant but still the Tribunal granted the recovery rights to the Insurance Company.

Learned counsel for respondent No. 3-Insurance Company has admitted the above said fact that the issue with regard to validity of the driving license was decided in favour of the claimants.

Since the driver was having the valid driving licence at the time of accident, the award dated 15.09.2010 passed by the Tribunal is modified to the extent that the appellant are not liable to pay compensation and the Insurance Company is liable to make the payment of entire compensation to the claimants.

The appeal stands partly allowed to the above extent.

Further it is hereby directed that the amount of Rs.25,000/- deposited by the appellants at the time of filing of appeal, vide receipt No. 560 dated 17.07.2012 in the Registry of this Court be returned to him.

07.03.2018

G Arora

(**RITU BAHRI**)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No