

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.7033 of 2011 (O&M)
Date of Order: 17.04.2018

National Insurance Co. Ltd.

..Appellant

Versus

Baljit Kaur and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ashwani Talwar, Advocate, and
Mr. J.S.Chatrath, Advocate, and
Mr. Varun Sharma, Advocate,
for the appellant.

Mr. Gaurav Sharma, Advocate,
for respondent no.1.

ANIL KSHETARPAL, J(Oral)

In this appeal, filed by the Insurance Company, challenge is to the award passed by the learned Motor Accident Claims Tribunal, Sangrur (hereinafter referred to as the 'Tribunal'), dated 20.10.2011.

Limited grievance of the Insurance Company is that the alleged driver of the tractor involved in an accident was not having a valid and genuine driving licence.

In the written statement, jointly filed by respondent nos. 1 and 2 (owner and driver), it was asserted that the driver Gurtej Singh, respondent no.1, was having a valid driving licence, however, neither a copy of the driving licence was attached with the written statement nor it was produced at the time of evidence. The Insurance Company produced on file a photocopy of the driving licence. Thereafter, the Insurance Company filed an application for getting the driving licence verified as the alleged driving

licence was issued by the District Transport Officer, Wokha, Nagaland, although, Gurtej Singh, respondent no.1, was residing in District Sangrur, Punjab. The application filed by the Insurance Company was disposed of by the learned Tribunal vide order dated 02.08.2011, which is extracted as under:-

“Application for getting driving licence of Gurtej Singh verified is disposed of with a direction to the Licensing Authority, Wokha (Nagaland) to verify genuineness or otherwise of the driving licence No.44688/NW/Prof/09 issued on 17.08.2009 in the name of Gurtej Singh son of Karnail Singh, resident of village Bangawali, District Sangrur and valid upto 16.08.2012. Adjourned to 25.08.2011 to await report. Copy of order be given |”Dasti” to learned counsel for Insurance Company for delivery upon the Licensing Authority concerned and to bring report on the adjourned date.

July 29, 2011

*Sd/-
(M.S.Chauhan)
(Motor Accidents Claims Tribunal)
Sangrur.”*

Pursuant to the aforesaid order, the Insurance Company got the licence verified through its investigator and a report was submitted before the learned Tribunal along with copy of communication dated 03.12.2010, issued by the Government of Nagaland, Office of the District Transport Officer, Motor Vehicle Department, Wokha, Nagaland, addressed to the Investigator. It was reported that the aforesaid driving licence, photocopy whereof was produced by the Insurance Company, is issued in the name of

Sh. Surender Singh.

Learned Tribunal returned a finding on issued no.3 against the Insurance Company on the ground that the verification report has not been proved in accordance with law.

The Insurance Company filed an application under Order 41 Rule 27 of the Code of Civil Procedure for permission to lead additional evidence so as to prove the aforesaid report dated 03.12.2010. Notices were issued in this appeal to driver and the owner, however they chose to remain absent.

In the present case, the Insurance Company-appellant had taken possible steps to prove before the Tribunal about the genuineness of the driving licence as noticed earlier. Still further, an application was filed before the Court for getting the driving licence verified. It was the learned Tribunal, which directed the Insurance Company to get verified the genuineness of the driving licence. The owner and driver did not even produce the original driving licence. In the written statement, particulars of the driving licence were not disclosed. Pursuant to the order dated 02.08.2011, passed by the learned Tribunal, the Insurance Company got the genuineness of the driving licence verified. A copy of the aforesaid verification along with the report of the Investigator was submitted before the learned Tribunal.

Taking into consideration the aforesaid facts, this court is of the opinion that the Insurance Company ought to have been granted opportunity to prove the aforesaid verification report issued by the District Transport Officer, Motor Vehicle Department, Wokha, Nagaland.

As noticed earlier, an application for additional evidence has

been filed by the Insurance Company along with an affidavit of the Investigator. It would be necessary for the court to get the final report on the genuineness of the driving licence which would help the court in adjudicating the dispute in proper manner.

In view thereof, the appeal is allowed, the case is remitted back to the learned Tribunal, to grant an opportunity to the Insurance Company to prove the verification report dated 03.12.2010.

It may be noted that the claimants had filed separate appeal for enhancement of the compensation, which has already been allowed vide judgment dated 22.09.2015, in FAO No.4365 of 2012 (Baljit Kaur v. Gurtej Singh and others). The Insurance Company shall discharge the liability towards claimants if not already discharged. The learned Tribunal shall be at liberty to issue notice to the owner and driver before proceeding to decide the matter.

Parties through their counsel are directed to appear before the learned Motor Accident Claims Tribunal, on 18.05.2018, at 10.00 AM.

April, 17, 2018
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No