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

206 **FAO-4812-2012 (O&M)**

Date of Decision:03.05.2018

Dharam Pal and another **.....Appellants**

Versus

**Bajaj Allianz General Insurance
Company Limited and others** **.....Respondents**

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

**Present: Mr. Ambrish Sharma, Advocate,
for the appellants.**

**Mr. M.B. Jain, Advocate and
Mr. Puneet Jain, Advocate,
for respondent No.1-Insurance Company.**

**Ms. Ekta Thakur, Advocate,
for respondent Nos.2 to 6.**

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<u>HARI PAL VERMA, J.(Oral)</u>

The present appeal has been filed by the owner and driver of the offending vehicle bearing registration No.HR-68-A-4079, impugning the award dated 03.05.2012 passed by learned Motor Accident Claims Tribunal, Chandigarh (for short "the Tribunal"), whereby the recovery rights have been granted to the Insurance Company on account of the fact that the owner-Dharam Pal has failed to adduce the driving licence of driver Som Nath, who was driving the offending vehicle which caused the accident.

Along with the appeal, the appellants have filed application bearing CM No.21198-CII of 2012 under Order 41 Rule 27 of the Code of

Civil Procedure, to lead additional evidence. Annexure A-1 is the photocopy of the driving licence of appellant No.2-Som Nath, the driver of the offending vehicle.

Notice of the application was issued and pursuant thereto, reply has been filed by respondent No.3-Insurance Company in Court today, which is taken on record. In para 4 of the reply, respondent No.3-Insurance Company has pleaded that the appellants themselves are responsible for not producing the driving licence before the Tribunal. Therefore, they are not entitled to lead any additional evidence. However, on verification, it is found that on the relevant date, the driver, namely, Som Nath was holding a valid driving licence. The relevant extract of the reply submitted by respondent No.3-Insurance Company reads as under:-

> *"That in reply to para No.4 of the application, it is submitted that the applicants/appellants themselves are responsible for not producing the said D.L. Annexure A-1 at the relevant time before the Ld. Tribunal. So the applicants/appellants are not entitled to lead any additional evidence at this belated stage.*
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> *However, it is submitted that the Insurance Company deputed its Investigator for the verification of said D.L. Annexure A-1 who after visiting the office of Licensing Authority Panchkula has obtained the requisite verification report regarding the said D.L. according to which the said D.L. stands issued by the said Licensing Authority in the name of Som Nath s/o Sh. Bachna Ram R.O Berwala P.O. Ramgarh Nagala Distt. Panchkula for LTV & HTV w.e.f. 26.10.2006 to 25.10.2009. From the said report it is evident that the Driving License of the said driver Som Nath has been found genuine and valid on the date of accident i.e. on 16.10.2009."*

In view of the aforesaid fact that respondent No.3-Insurance

Company has verified the driving licence of the driver and has come to the conclusion that the driver was holding a valid licence at the time of accident, this Court finds that the present appeal qua the appellants-owner/driver deserves to be allowed. Accordingly, the award fastening the liability upon the appellants, is set aside and the liability to pay compensation is ordered to be shifted upon the Insurance Company.

The present appeal stands disposed of accordingly. The liability fasten upon the appellant i.e. owner of the vehicle shall be that of the Insurance Company because at the relevant time, when the accident was caused, the driver of the offending vehicle was holding a valid driving licence, which has duly been verified by the Insurance Company.

Since the appeal has been disposed of, pending miscellaneous applications, if any, shall also stand disposed of accordingly.

May 03, 2018 **(HARI PAL VERMA)**
seema **JUDGE**

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No