IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of Decision: 22.10.2018

1) FAO no.5453 of 2012(O&M)

Sant Malkit Singh Chela Sant Baba Hardial Singh Ji Chela Sant Baba Bhag singh Ji

...Appellants

Vs.

United India Insurance Co. Ltd. and others

...Respondents

2) FAO no.5454 of 2012(O&M)

Sant Malkit Singh and another ...Appellants

Vs.

United India Insurance Co. Ltd. and others ...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Roshan Lal Sharma, Advocate,
for the appellants.
Mr. V. Ramswaroop, Advocate,
for the respondent-insurance co.

Amol Rattan Singh, J (Oral)

On October 3, 2018, the following order was passed:-

"By this appeal the appellants have challenged the Award of the learned Motor Accident Claims Tribunal, Hoshiarpur, dated 04.08.2012, to the extent that recovery rights have been granted to respondent no.1-insurance company, as had insured the vehicle driven by appellant no.2,owned by appellant no.1, as regards the compensation awarded by the Tribunal to the claimants, i.e. respondents no.2 and 3 herein.

The said recovery rights were granted by the Tribunal in view of the fact that no evidence was led by the appellants to prove that appellant no.2 was carrying a valid driving licence on the date of the accident, i.e.13.11.2009.

Thus, with the appeal, an application under Order 41 Rule 27 of the CPC has also been filed (bearing CM-24755-CII-2012), seeking to lead additional evidence in the form of a driving licence shown to be issued to respondent no.2, i.e. Jasvir Singh, as also a seizure memo dated 13.11.2009, the seizure memo being related to the criminal case registered against appellant no.2, i.e. FIR 80, dated 13.11.2009, at Police Station Bullowal, District Hoshiarpur.

As per the photocopy of the driving licence as has been annexed with the application, it is shown to be bearing no. DR-2706, dated 13.10.2009, valid upto October 12, 2012.

A photocopy of the seizure memo as has been annexed with the application alongwith a translated version thereof, reads to say that appellant no.2 (Jasvir Singh) had "presented to Head Constable Kamaljit Singh of Police Station Bullowal, in the presence of Head Constable Sewa Singh, his driving licence bearing the aforesaid number issued by the District Transport Officer, Jalandhar, valid upto 12.10.2012, alongwith an insurance certificate of the truck tipper bearing Engine no.109244 and Chassis no.F05675 and is valid from 05.10.2009 to 04.10.2010, and photostat copy of sale letter," both of which had been taken into police custody.

Learned counsel for respondent no.1 insurance company, submits that in view of the verification report received by the company, he does not seriously dispute that respondent no.2 did possess a valid driving licence on the date of the accident; however, the original documents have not been produced.

Consequently, adjourned to 17.10.2018 for producing in Court the original documents as are sought to be led by way of additional evidence.

To be shown in the urgent list.

A photocopy of this order be placed on the file of the connected case."

Thereafter on October 17, 2018, the following order had been passed:-

"Pursuant to the order dated October 03, 2018, Mr. Sharma, learned counsel for the appellants, has produced in Court today a driving licence shown to be issued in the name of Jasvir Singh son of Banta Singh, i.e. appellant no.2, but carrying the number PB-0820090106665, issued on 13.10.2009 and valid till 12.10.2017 as regards driving non-transport vehicles and 30.12.2018 for transport vehicles.

Though the said licence is obviously not the same as the one which is depicted in the certified copy annexed with the application moved under Order 41 Rule 27 CPC, the said licence bearing no.DR-2706 dated 13.10.2009, valid upto 12.10.2012, however it seems obvious that it is a licence renewed thereafter, on the basis of the licence dated 13.10.2009, since the date of issue shown on the renewed licence produced in Court today, is the same, i.e. 13.10.2009.

Mr. Sharma has also pointed out that even as recorded in the order dated October 03, 2018, Mr. V. Ramswaroop, learned counsel for the respondent-insurance company, had submitted that in fact a verification report has been received by the company, and he did not seriously dispute that appellant no.2 (wrongly recorded as respondent no.2 in that order) did possess a valid driving licence on the date of the accident.

Even having recorded as aforesaid, this Court had still directed Mr. Sharma, learned counsel for the appellants, to produce in Court the original driving licence, which has been produced today as a subsequently renewed driving licence to the one held by appellant no.2 on the date of the accident.

Since Mr. V. Ramswaroop is not present in Court and learned counsel appearing for him seeks some time, adjourned to 22.10.2018.

To be shown in the urgent list.

A photo copy of this order be placed on the file of the other connected case."

Today, Mr. V. Ramswaroop, learned counsel for respondent no.1-insurance company, fairly submits that the insurance company has got the licence duly verified and found that the licence carried by appellant no.2, Jasvir Singh, was a valid driving licence on the date that the accident took place, i.e. 13.11.2009.

Consequently, the applications, (i.e. CM no.24755-CII of 2012 filed in FAO no.5453 of 2012 and CM no.24757-C-II of 2012 filed in FAO no.5454 of 2012), are allowed, by which the appellants sought to lead additional evidence in the form of the driving licence of appellant no.2, Jasvir Singh (in both the appeals), the original of which was duly produced in Court on October 17, 2018, is found to have been proved. A certified copy thereof be placed on the record of the case file as Exhibit-A1.

That being so, there would be no reason for the insurance company that had insured the vehicle to not indemnify appellant no.1, i.e. the owner of the vehicle bearing registration no.PB-08-BL-9213.

Consequently, these appeals are allowed to the extent that though the liability to pay compensation awarded by the learned Motor Accident Claims Tribunal would fall upon the appellants as also respondent no.1, i.e. United Insurance Co. Ltd., the appellants would stand indemnified by virtue of the insurance policy issued in favour of appellant no.1 by respondent no.1 and consequently, there would be no recovery rights available to the insurance company.

22.10.2018 **(Amol Rattan Singh)**
vcgarg **Judge**

Whether speaking/reasoned : Yes
Whether reportable : Yes