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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.28690 of 2017
Date of decision:23.01.2018

M/s Oriental Insurance Co. Ltd. ...Petitioner

Versus

Malwinder Singh and others ...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Ms. Vandanaa Malhotra, Advocate,
for the petitioner.

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Rakesh Kumar Jain, J.

This petition is filed by the Insurance Company to challenge the order dated 08.05.2017 passed by the Permanent Lok Adalat (Public Utility Services), Fatehgarh Sahib, by which application filed by respondent no.1 under Section 22-C of the Legal Services Authority Act, 1987 (hereinafter referred to as the "Act") for the settlement of his claim in regard to his vehicle mark Bolero Maxi Truck Plus MDI BSII, bearing temporary registration No.PB-10EX(T)-5590 has been settled in his favour.

Learned counsel for the petitioner has argued that the order passed by the Permanent Lok Adalat is patently erroneous as the driver of the aforesaid vehicle was not holding a valid driving license.

In this regard, I am in full agreement with the observations made by the Permanent Lok Adalat, which are reproduced as under:-

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"The accident, lodging of report and appointment of surveyor and investigator are admitted. The only question pertinent to the decision of the present case is whether the driver of the truck in question namely Gurpreet Singh was holding a valid and effective driving license or not. Investigator through his letter Ex. R4 sought the verification of the driving license no. 32261/TV/T/2012 of Gurpreet Singh which was issued on 10.3.12 and was valid upto 9.4.16 by DTO Tuensang Nagaland. Reply to Surpreet Singh son of Ranjeet Singh on 10.3.12 which was valid upto and endorsement was made to drive MC, LMV, LTV, HTV and endorsement was made to drive LTV, HTV on 10.4.13. Under remarks column it was mentioned as follows

> "As per the Government of Nagaland, Motor Vehicles Department, Office of the Transport Commissioner Nagaland Kohima, order No. TC-23/MV/2007 (PT-J/dated Kohima the 1st of August 2014, all license other than the Smart Card format are to be treated as cancelled, hence the above driving license has been cancelled per the above order"

20. The respondent Insurance company has relied upon only the above remarks that of licenses other than the Smart Card Format are to be treated as cancelled and rejected the claim. The respondent Insurance Company has failed to bring on record any document or a letter or any publication in the newspaper about the publication of the above remarks so that the action taken is intimated to one and all. No letter intimating the driver Gurpreet Singh has been brought on record. Without there being any intimation to the driver Gurpreet Singh it cannot be said that he was not holding a valid and effective driving license because otherwise there was no defect in issuance of the license or the authorization to drive the vehicles including endorsement. The only ground is that the said license authority has issued a Smart Card instead of ordinary driving license but that does not tentamount to invalidity of the driving license of Gurpreet Singh. Therefore, the driving license of Gurpreet Singh was legally valid and effective on the date of accident i.e. 10.6.15. As per the surveyor report Ex. R7 it was a case of total loss and as per the surveyor report Ex. R9 the loss assessed on total loss basis was Rs.

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4,50,438/-."

In view of the aforesaid, I do not find any merit in the present petition and hence, the same is hereby dismissed, though without any order as to costs.

January 23, 2018 **(Rakesh Kumar Jain)**
vinod* **Judge**

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No