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

**FAO No.1861 of 2014 (O&M)**
**Date of decision: 06.04.2018**

**Reliance General Insurance Company Ltd. ...Appellants**

**Versus**

**Bhajan Kaur and Others ...Respondents**

**<u>FAO No. 3981 of 2014 (O&M)</u>**

**Bhajan Kaur and Others ...Appellants**

**Versus**

**Rajinder Singh @ Jindu and Others ...Respodents**

**CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present: Mr. Subhash Goyal, Advocate
for the appellant(s).

Mr. Kushagra Mahajan, Advocate
for respondents No. 1 to 5.

Mr. Harit Sharma, Advocate
for respondents No.7 and 8.

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**<u>AVNEESH JHINGAN, J. (ORAL)</u>**

These two appeals arise from the award dated 06.11.2013 passed by Motor Accident Claims Tribunal, Amritsar (for short, 'the Tribunal').

The Insurance Company has filed FAO No. 1861 of 2014 having a grievance that the accident occurred on 11.08.2011, whereas the driving licence produced by the driver of the offending vehicle was valid from 07.12.2011, in spite of that no recovery rights have been granted. The claimants have filed FAO No. 3981 of 2014 for enhancement of compensation.

The bare facts necessary for adjudication of the present appeals are that an accident took place on 11.08.2011. Kuldip Singh lost his life in the said accident. The offending vehicle was Mini Bus bearing registration No. PB-02-BA-9805.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed by the LRs of the deceased. The Tribunal awarded a sum of ₹ 6,05,000/- along with interest at the rate of 7% per annum.

There is no dispute raised regarding involvement of the offending vehicle, its rash and negligent driving, the age of the deceased and the earning assessed of the deceased.

From a perusal of the driving license Exhibit R-4, it prima facie appears that the license was issued on 07.12.2011 and was valid till 06.12.2031.

The contention of the counsel for the insurer is that on the date of accident, the said driving license was not valid. From the reading of the award, it is evident that no such plea was raised before the Tribunal. It would not be appropriate to decide the said issue without giving opportunity to the driver and owner of the offending vehicle to show that there was a valid driving license on the date of accident.

Without expressing any opinion on the merits of the case, the matter is remitted back to the Tribunal to decide the issue afresh after serving a notice to the driver and owner of the offending vehicle. The parties would be at liberty to adduce afresh evidence if so desired in support of their case.

Since the issue regarding liability to pay is being decided afresh, it would be appropriate that the Tribunal may also determine the issue of enhancement of compensation regarding adding future prospects and amounts to be awarded under conventional heads, in view of the latest decisions of the Supreme Court in National Insurance Company Ltd. Vs. Pranay Sethi and Others 2017 (4) RCR (Civil) 1009.

Appeal is disposed of accordingly.

**(AVNEESH JHINGAN)**
**JUDGE**

**April 06, 2018**
Poonam (II)

*Whether speaking/reasoned:* *Yes/No*

*Whether reportable:* *Yes/No*