

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

Date of decision: 08.08.2018

FAO No.2387 of 2016 (O&M)

New India Assurance Co. Ltd.

... Appellant

Versus

Ramandeep Singh and others

... Respondents

FAO No.2393 of 2016 (O&M)

New India Assurance Co. Ltd.

... Appellant

Versus

Jagraj Singh and others

... Respondents

FAO No.2394 of 2016 (O&M)

New India Assurance Co. Ltd.

... Appellant

Versus

Kamaljit Kaur and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Paul S. Saini, Advocate and
Mr. Vipul Sharma, Advocate
for the appellant.

Mr. Deepak Arora, Advocate
for respondent-owner.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.2387, 2393 and 2394 of

2016 as common questions of law and fact are involved for adjudication.

For brevity, facts are taken from FAO No.2387 of 2016.

Counsel for the insurance company would inform that the appeal has been preferred to assail findings of the Tribunal on issue No.4 qua driving licence of Satpal Singh, driver of truck (oil tanker) bearing No.PB-10/W-9803.

Counsel for the appellant-insurance company has two fold submissions to make. It is argued that the insurance company placed on record investigation report dated 08.07.2015 Exs.R1 and R2 prepared by Sandeep Datta, Investigator to prove that licence possessed by Satpal Singh is fake. Another submission made by counsel is that on the licence produced before the Tribunal, there is no endorsement authorising Satpal Singh to drive a vehicle carrying inflammable and hazardous substance.

Counsel representing the insured/owner of the vehicle has supported findings of the Tribunal on issue No.4 with the submission that reports prepared by the investigating officer are not per se admissible in evidence, therefore, have rightly been ignored by the Tribunal. In addition, it is argued that absence of endorsement in terms of Section 14 of the Motor Vehicles Act, 1988 (in short 'the Act') would not make the driver incapable to drive the vehicle in question particularly in the circumstances that accident is not attributed to the factum of carrying oil, in the vehicle in question.

I have heard counsel for the parties, perused the paper book particularly the award.

The insurance company failed to discharge its obligation to establish that licence possessed by Satpal Singh was not issued by the concerned licensing authority or the same is fake. Sandeep Datta, investigator did not appear in the witness box to prove the reports. The reports marked as exhibits are not per se admissible in evidence. That being so, it can safely be held that the investigator's reports cannot form the basis to record a finding that licence possessed by Satpal Singh is fake.

So far as the plea that Satpal Singh was not competent to drive the vehicle for want of endorsement in terms of Section 14 of the Act, the same is untenable when examined in the light of judgment of this Court **National Insurance Co. Ltd. Vs. Harbans Kaur and others, along with connected case, FAO No.1210 of 2014 decided on 26.03.2018.**

No other point has been raised.

For the foregoing reasons, the appeals fail and are accordingly dismissed.

No order as to costs.

08.08.2018
ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No