

FAO No. 4064 of 2015 (O&M)
DECIDED ON: DECEMBER 04, 2018

.....APPELLANT

VERSUS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Harjinder Singh, Advocate
for the appellant.

Mr. Lalit Kumar, Advocate for
Mr. Ashwani Talwar, Advocate
for respondent No.1-Insurance Company.

AVNEESH JHINGAN, J (ORAL)

The award dated 19.08.2013 passed by Motor Accident Claims Tribunal, Palwal (for short 'the Tribunal') has been assailed by the owner of vehicle bearing registration No. HR-38-G-2838 (hereinafter referred to as 'offending vehicle'), being aggrieved of the order granting recovery rights to the insurer of the offending vehicle against him.

The brief facts of the case are that in a motor vehicular accident that took place on 16.03.2010, Arun Kumar Jain lost his life. The vehicles involved in the accident were Maruti Van bearing registration No. DL-7CH-4641 and the offending vehicle.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act') was filed by the legal heirs of Arun Kumar Jain (deceased).

The Tribunal after considering the facts and appreciating the evidence adduced, held that the accident was caused due to rash and negligent driving of the offending vehicle. The insurer of the offending vehicle was held liable to pay compensation to the claimants and was given recovery rights to recover the compensation amount.

The Tribunal awarded a sum of ₹7,40,000/- alongwith interest @6% per annum.

The recovery rights were granted to the insurer of the offending vehicle, as no driving licence was produced before the Tribunal.

Learned counsel for the appellants contended that the original driving licence was part of the criminal proceedings. PW-1 Parveen Rawat, Additional Ahlmad in the Court of Sub-Divisional Judicial Magistrate, Palwal deposed before the Tribunal and verified the fact that the original driving licence was there in the criminal proceedings.

During the pendency of the appeal, photocopy of the driving licence was handed over to the counsel for the insurer to verify the same. Learned counsel for the insurer states that it will take time to verify the driving licence.

Keeping in view the facts and circumstances of the case, that even after verification of driving licence, there may be certain factual aspects, requiring adducing of further evidence. Hence, the issue with regard to liability to pay the compensation only is remanded back to the Tribunal to decide it

afresh after providing opportunity to the owner, driver and insurer of the offending vehicle to adduce evidence, if so desire.

The driver, owner and insurer of the offending vehicle are directed to appear before the Tribunal on 08.03.2019.

DECEMBER 04, 2018
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(AVNEESH JHINGAN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>