

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

-.-

FAO No. 622 of 2014 (O&M)

Date of decision: 19.04.2018

Balwinder Singh

..... Appellant

Versus

New India Assurance Company and others

..... Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Ashwani Arora, Advocate
for the appellant

Mr. Vinod Gupta, Advocate
for respondent No. 1

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Rekha Mittal, J. (Oral)

The present appeal directs challenge against award dated 16.12.2013 passed by the Motor Accidents Claims Tribunal, Panchkula (hereinafter to be referred as 'the Tribunal') whereby compensation has been awarded to Lakhwinder Singh in respect of injuries sustained by him in a motor vehicular accident that took place on 01.10.2009.

The precise grievance of the appellant (registered owner/insured of offending vehicle bearing No. HP-02-1695) is that the Tribunal has relied upon reports Ex.RD and Ex.RH to say that driving licence Ex R1 purported to be issued by the Licensing Authority, Hazaribagh (Jharkhand) is not valid and consequently the insurance company has been exonerated of its liability to pay compensation.

On 26.05.2014, order passed by this Court reads as follows:-

“The appellant has an objection that the Tribunal was not justified in securing a report from the DTO directly to state that the driving licence had not been issued. The Tribunal was not actually acting merely on investigating officer's report from the insurance company but it took that as basis for escalating it to the next stage of securing the report from the DTO office. Section 169 of the Motor Vehicles Act allows for a reasonable play in joints that sets an agenda for a summary procedure to be adopted. A Tribunal which calls for a report was well within its power to secure a report and make that a basis for its conclusion that the driving licence was not genuine.

The counsel for the appellant has a grievance that the Court ought not to have accepted the same. The counsel for the insurer pointed out that the owner had at least four occasions at the time of trial to controvert the details brought but he did not avail himself such an opportunity. The appellant prays that he should be given an opportunity to examine himself. The issue of whether the appellant will have any further opportunity to give his own evidence or whether he has foreclosed his right at the time of trial will be considered after the documents are summoned through a witness from the DTO office. I take the report as what it contains as prima facie correct. However, since the appellant has doubt about its correctness, I will offer to the appellant an opportunity to send for the record at his own expenses and take step to summon whomsoever

he wants from the DTO office. For taking steps for summoning record in original from the DTO's office adjourned to 29.11.2014.”

In pursuance of a communication received from this Court, Licensing Authority, Hazaribagh (Jharkhand) has sent a report vide letter dated 27.10.2016 along with photocopy of a document with seal of Licensing Authority, Hazaribagh (Jharkhand) to say that in the year 2005 the said authority had issued driving licences upto serial No. 800.

Counsel for the parties are *ad idem* that findings of the Tribunal in regard to driving licence may be set aside and the matter be remitted to the Tribunal for deciding the question of driving licence afresh by examining a witness of Licensing Authority, Hazaribagh (Jharkhand) through a Commission to be appointed by the Tribunal and expenses for the same would be borne by the insurance company.

In view of the above, the appeal stands disposed of, findings of the Tribunal recorded in para 28 of the award are set aside and the matter is remitted to the Tribunal to decide the question of validity or otherwise of driving licence Ex.R1 afresh. The Tribunal shall appoint a Commission for examination of a witness of the Licensing Authority, Hazaribagh (Jharkhand), at the expense of insurer. The parties through their counsel are directed to appear before the Tribunal on 22.05.2018 and the Tribunal shall dispose of the matter within six months of the parties putting in appearance.

(Rekha Mittal)
Judge

19.04.2018
mohan bimbura

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No