IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O No. 5335 of 2015
Date of decision:- 28.02.2018

Pardeep Kumar ...Appellants

Versus

United India Insurance Co. Ltd. And others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sanjeev Patyal, Advocate, for the appellant.

Mr. Harsh Aggarwal, Advocate, for respondent No.1.

RITU BAHRI J. (Oral)

This appeal has been filed by the appellant against the awarded dated 06.05.2015 passed by Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal') whereby Tribunal awarded Rs.47,70,440/- as compensation to the claimant on account of death of Pawan Kumar in a motor vehicular accident which took place on 08.01.2014 with a direction to respondent No.3 shall have the right to recover the amount of compensation being awarded by this Tribunal from respondent No.1.

Brief facts of the case are that, on 08.01.2014, Pawan Kumar died in a road side accident when he was driving on his motorcycle and when he was alleged struck with the vehicle i.e. Bus which was driven by the appellant No.1 and owned by the appellant No.2. Consequently, claim petition filed by widow of the deceased.

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had been caused on account of negligent driving of offending vehicle by respondent No.1. Keeping in view the facts and circumstances, Tribunal awarded Rs. 47,70,440/-

along with interest @ 7.5% p.a.. Learned Tribunal further granted the right of recovery to the insurance company against the appellant No.1.

Feeling dissatisfied with the findings of issue No.4 given by the Tribunal regarding driving licence due to which recovery rights has been granted to Insurance Company, appellant file the present appeal.

Learned Counsel for the appellant argued that respondent no.1 (present appellant) who is the driver and was possessing a valid driving licence which was Ex. RW3/X along with its verification report.

I have heard learned counsel for the parties and perused the case file.

After hearing learned counsel for the appellant this appeal deserved to be allowed. Both the parties are not disputing the findings of issue Nos. 1 to 3 in the present case.

A perusal of the award shows that to prove the issue No.4 i.e. Whether the driver of offending vehicle was not having a valid driving licence at the time of accident ? OPR, Respondent No.1 is placed on record as Ex. RW3/X, which showed that respondent NO.1/Driver was not holding a valid and effective driving licence at the time of accident. This issue is, therefore decided in favour of the respondent No.3 and recovery rights given against the respondent No.1.

In the present case, driver/appellant has placed on record the certified copy of the driving licence Annexure A1 and the verification report Annexure A2. A perusal of the same shows that the driving licence had been issued and the same was valid upto

31.07.2014 for MC, LMV only with endorsement to drive light motor vehicle and heavy motor vehicle. On the other hand verification report Annexure A2, issued by The District Transport Officer Zunheboto, Nagaland stated that driving licence No.11394/TC/2/2011 issued to Pardeep Kumar was a valid upto 31.07.2014. To prove the said facts, learned counsel for the appellant has referred the judgment of this Court in ***IFFCO TOKIO General Insurance Company Ltd. Versus Rupa Devi and Others***, whereby it is stated that as per the orders of Government of Nagaland all the driving licence in booklet form have been cancelled w.e.f. 01.07.2015. Since driving licence was issued on 1.08.2014 under the securitization of Transport Commissioner Nagaland valid upto 31.07.2014 and the accident occurred on 08.01.2014, therefore, it is clear that driver was holding valid licence at the time of accident, hence appeal filed by the insurance company has been dismissed.

Keeping in view of the Driving Licence, Annexure A1 and Verification Report, Annexure A2, the findings of issue No.4 has been reversed and no recovery rights be granted to insurance company from respondent No.1 who is driver of offending vehicle. The award dated 06.05.2015 is being modified to the above extent and remaining conditions of disbursal of amount shall remain unaltered.

Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

28.02.2018 **(RITU BAHRI)**
Riya Grover ***JUDGE***

Whether speaking/reasoned Yes
Whether reportable No