

FAO No. 4368 of 2016 (O&M)
DECIDED ON: DECEMBER 20, 2018

.....APPELLANT

VERSUS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Arvinder Arora, Advocate
for the appellant.

Ms. Vandana Malhotra, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J (ORAL)

The owner-cum-driver of Tractor trolley bearing Engine No. 4095FLS92J182559, Chasis No. KZZDX182081/3 (hereinafter referred to as 'offending vehicle') is in appeal against the award dated 17.10.2014 passed by the Motor Accident Claims Tribunal, Ambala (for short 'the Tribunal'). The grievance raised is that the Insurance Company has been wrongly exonerated from the liability to pay compensation.

The facts in brief are that Meenu @ Minal, 1 ½ years old lost her life in a motor vehicular accident that took place on 09.12.2009. The offending vehicle was involved in the accident.

A claim petition under Section 163-A of the Motor Vehicles Act,

1988 (for brevity 'the Act') was filed by the unfortunate parents.

The Tribunal awarded a sum of ₹2,00,000/- alongwith interest @7.5%. The insurer of the offending vehicle was exonerated, as it was held that the owner-cum-driver of the offending vehicle was not having a valid driving licence on the date of accident. Aggrieved of the liability to pay the compensation, the owner-cum-driver is in appeal.

In appeal, it was argued that driving licence was exhibited as Ex.R1 before the Tribunal, but by mistake the back side of driving licence was not considered by the Tribunal.

A copy of the driving licence was handed over to the counsel for the insurer. She submits that a verification report to the effect that the driver was not authorised to drive the offending vehicle.

On the other hand, learned counsel for the appellants has produced a verification report from the Licensing Authority stating that the driver was authorised to drive the offending vehicle on the date of accident.

For deciding the liability to pay the compensation amount, certain factual aspects need to be considered including the validity of the two verification reports produced. The matter only with regard to liability to pay the compensation amount is remitted back to the Tribunal to decide the same in accordance with law after providing an opportunity to the owner-cum-driver and the insurer of the offending vehicle to adduce fresh evidence, if so desired.

The owner-cum-driver and the insurer of the offending vehicle are directed to appear before the Tribunal on 30.01.2019.

As the only dispute is with regard to liability to pay compensation, there is no occasion that the amount awarded by the Tribunal should not be disbursed.

It is again clarified that the remand of the case shall not affect the disbursement of compensation to the claimants.

Disposed of accordingly.

DECEMBER 20, 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>