

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

FAO No.5898 of 2015 (O&M)

Date of decision: 22.03.2018

Hardev Singh and another

... Appellants

Versus

Jagvir Singh and another

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Naresh K. Manchanda, Advocate
for the appellants.

Mr. Gopal Mittal, Advocate
for the insurance company.

REKHA MITTAL, J. (Oral)

The driver and owner of bus bearing No.PB-03-X-2600 has filed the appeal to assail award dated 06.05.2015 passed by the Motor Accidents Claims Tribunal, Sangrur whereby the insurance company has been allowed recovery right against the appellants on the basis of findings recorded on issue No.3 that reads as follows:-

“Whether the driver of the offending bus bearing No.PB-03-X-2600 was not holding a valid and driving licence at the time of alleged accident?OPR-3”

Counsel for the appellants would urge that the Tribunal accepted plea of the insurance company with regard to driver not possessing a valid licence on the basis of document Ex.RX, purported to be issued by the licensing authority at Mathura certifying that driving licence

No.9104/MTR/03 is not issued in the name of Hardev Singh son of Atma Singh. Indisputably, the insurance company did not examine a representative of the said licensing authority at Mathura to prove the report Ex.RX on the basis of records maintained by the concerned licensing authority and providing an opportunity to the registered owner of the vehicle to cross-examine the witness. As the insurance company failed to prove the report Ex.RX, in accordance with law, reliance upon the said report by the Tribunal is highly misplaced to say that licence possessed by the driver is fake and the insurer is entitled to right of recovery. In this view of the matter, findings recorded by the Tribunal on issue No.3 cannot be allowed to sustain and liable to be set aside. This apart, as there is no privity of contract between the insured and driver of the vehicle, insured cannot press for right of recovery against driver of the offending vehicle. Analyzed from any angle, Tribunal has seriously erred by giving right of recovery in favour of the insurer.

For the foregoing reasons, the appeal is partly allowed. The insurance company shall be jointly and severally liable to pay compensation to the claimants without any right of recovery.

No order as to costs.

22.03.2018

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(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:

Yes / No

Whether reportable:

Yes / No