

In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: 7.9.2018

FAO No. 6950 of 2015(O&M)

Shiv Charan Sharma @ Shiv Bachan Sharma and another

---Appellants

versus

Sucha Singh and another

---Respondents

FAO No. 6989 of 2015(O&M)

Shiv Charan Sharma @ Shiv Bachan Sharma and another

---Appellants

versus

Kulwant Kaur and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Ishan Gupta, Advocate
for the appellants**

**Mr. Ajay Singla, Advocate,
for the insurance company**

Rekha Mittal, J.

CM No. 22592-CII of 2017 in FAO- 6950 of 2015

**Prayer in this application is for placing on record Annexures R-
2/1 to R-2/4.**

Heard.

Allowed as prayed for.

Annexures R-2/1 to R-2/4 are taken on record subject to just exceptions.

Disposed of accordingly.

Main cases

This order will dispose of FAO No. 6950 and 6989 of 2015 as these have emerged out of the same award dated 4.4.2015 passed by the Motor Accidents Claims Tribunal, Amritsar (in short “the Tribunal”) whereby compensation has been awarded on account of injuries sustained by Sucha Singh son of Kartar Singh and death of Joga Singh @ Jugraj Singh son of Sucha Singh, in a motor vehicular accident that took place on 12.2.2014. For the sake of convenience, facts are taken from FAO No. 6950 of 2015.

The appeal has been preferred by the driver and owner of offending canter/Truck bearing No. PB-13-U-9603.

The sole submission made by counsel for the appellants is that as name of the driver in the FIR was wrongly mentioned as Shiv Charan Sharma in place of Shiv Bachan Sharma, in the claim application, the same error was carried forward and as a consequence, the Tribunal upheld plea of the insurance company that driver was not possessing a valid licence on the basis whereof, the insurance company has been given right of recovery against the insured after payment of compensation to the claimants. It is argued that as a matter of fact, Shiv Charan Sharma and Shiv Bachan Sharma is one and the same person. Verification of driving licence Mark RX is already on record and the said licence was found to be valid and genuine as per verification report Ex. R1, tendered into evidence by the

insurance company.

Counsel representing the insurance company, on the basis of investigation report dated 13.7.2017 and statements of Shiv Bachan Sharma, Gurtej Singh and Sohan Singh Annexures R2/2 to R2/4 allowed to be taken on record has fairly conceded that Shiv Charan Sharma and Shiv Bachan Sharma is one and the same person.

In view of the above, contention raised by counsel for the appellant gets substantiated from the verification made by the insurance company when otherwise licence of Shiv Bachan Sharma has already been found to be genuine in view of the report Ex. R1 before the Tribunal, produced by the insurance company. That being so, findings of the Tribunal that the insured is guilty of violating the terms and conditions of the insurance policy or the insurance company is entitled to right of recovery against the insured cannot be allowed to sustain and accordingly set aside. As a natural corollary, issues No. 3 and 4 are answered against the insurance company.

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

(Rekha Mittal)
Judge

7.9.2018

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No