

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

F.A.O No. 9302 of 2014

Date of decision:-03.04.2018

Bharti Axa General Insurance Co. ...Appellant

Versus

Dharambir and Others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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

Mr. Sudhir Hooda, Advocate,
for respondent No.1.

Ms. Anita Balyan, Advocate,
for respondent Nos.2 and 3.

RITU BAHRI J. (Oral)

This appeal has been filed by the appellant against the award dated 17.05.2014 passed by Motor Accident Claims Tribunal, Rohtak (hereinafter referred to as 'the Tribunal') whereas an amount of compensation to the tune of Rs.79,000/- has been awarded to the claimant Dharambir on account of injuries sustained by him in a motor vehicular accident which took place on 11.01.2011.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 11.01.2011, the petitioner along with other occupants of the Tata spacio bearing registration No. HR14B-3134 was going for his personal work to Mundhal from hansi. When TATA Spacio reached near Village Anipura at about 7.45 am, then respondent No. 1 came from the side of Garhi by driving his truck bearing No. HR-13GA-0420 Mark LP in a rash and negligent manner and hit the TATA Spacio. Respondent No. 1 ran away from the place. The petitioner was injured and was taken to

the hospital where he was treated by the Doctor. An FIR No. 19 dated 11.01.2011 under Sections 279/337/304A and 338 of IPC was got registered.

Consequently, claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

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. This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants. Hence, the petition filed by the petitioner Dharambir succeed in his favour and an award for the sum of Rs.79,000/- is passed in favour of the petitioner alongwith interest @ 7.5% per annum from the date of filing of the petition till its realization against respondent Nos. 1 to 3 jointly and severally.

Feeling dissatisfied with the impugned award, the appellant has preferred the present appeal on the short ground that recovery rights be given to them from the driver and owner i.e. Respondent Nos.1 and 2.

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

To prove the facts, learned Counsel for the appellant has been placed on record copy of the order dated 08.11.2013 passed by Motor Accident Claims Tribunal, Narnaul as Annexure A1 vide which recovery rights be given to the insurance company. In the said award it has been observed that driving licence of respondent No.1 was fake and

fact was proved by letter of Assistant Regional Transport Officer, Mathura Ex. RW1/B vide which driving licence Mark DA was never issued in the name of Rajender Son of Bhim Singh respondent No.1. The record clerk of the office of Licensing Authority, Mathura Anal Bihari Sahai RW1 in his testimony has stated that as per their record the driving lincence no. 15516/MTR/03 has been issued to Vishnu Kuamr son of Ram Bharose. Even as per RW2 Jagish Kumar, Sr. Analyst of insurance Company has stated that as per report of the clerk of Licencing Authority, Mathura, driving licence Mark DA was not issued in the name of Rajender son of Bheem Singh (respondent No.1).

In view of the deposition of RW1 and RW2 , the Tribunal observed that insurance company is not liable to pay any compensation amount to the petitioner because at the time of the accident, respondent No.1, the driver of the offending truck was not holding a valid driving licence. Learned Counsel for the claimants has not informed about any appeal filed by the insurance company as Annexure A1.

Keeping in view the supportive evidence led by the insurance company to show that Rajender Singh does not have any valid licence . Therefore, all the respondents (before the Tribunal) i.e. Owner and Driver are held liable to pay amount of compensation to the claimants jointly or severally. However, the present appeal is partly allowed and recovery rights are given to the Insurance Company to recover the same from driver and owner. Accordingly present appeal stands disposed of.

03.04.2018
Riya Grover

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>