

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

213-2

FAO No.9779 of 2014 (O&M)

Date of decision: 16.08.2018

National Insurance Company Ltd.

... Appellant

Versus

Lakhvir Singh and ors.

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mrs. Vikas Chaudhary, Advocate for the appellant.

Mr. Sunil Agnihotri, Advocate for respondent No.1.

Mr. H.S. Saini, Advocate for respondent No.2.

Mr. Nikhil Batta, Advocate for respondent No.3.

REKHA MITTAL, J. (Oral)

Counsel for the insurance company would urge that after decision by the Tribunal on 16.07.2014, the insurance company received verification report qua the driving licence of Lakhvir Singh and as per the verification report, licence has been found to be fake. The insurance company has filed an application under Order 41 Rule 27 read with Section 151 CPC seeking permission to produce verification report (Annexure A1) and driving licence (Annexure A2) as additional evidence. It is vehemently argued that as licence possessed by Lakhvir Singh has been found to be fake, the insurance company is entitled to be exonerated of liability to pay compensation or in the alternative can press for right of recovery against the insured after payment of compensation to the claimant.

Counsel representing owner of the offending vehicle, on the contrary, would urge that as the insurance company has failed to discharge its obligation to prove issue No.3, insurance company cannot be heard to say that either it is not liable to pay compensation or can press for right of recovery against the insured.

However, counsel for the parties, i.e. insurance company and the insured are ad idem that findings of the Tribunal on issue No.3 may be set aside and the matter be remitted to the Tribunal for decision of issue No.3 afresh on the basis of evidence to be adduced by the insurance company as well as the insured.

In view of the above, without going into merits of the contentions raised by counsel for the parties on the question of driving licence of Lakhvir Singh, the appeal stands disposed of. Findings of the Tribunal on issue No.3 are set aside and the matter is remitted to the Tribunal for decision of issue No.3 afresh on the basis of evidence to be adduced by the insurance company as well as the insured-New Punjab Service, Transport Society, Jalandhar. Parties through their counsel are directed to appear before the Tribunal on 17.09.2018.

16.08.2018

ashok

(REKHA MITTAL)**JUDGE**

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No