

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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FAO-8473-2015 (O&M)
Date of Decision : 14.8.2018

Iffco Tokia General Insurance Company Ltd. ...Appellant

vs.

Rahul and another

...Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Ms. Vandana Malhotra, Advocate
for the appellant.

Mr.R.K.Agnihotri, Advocate
for respondent No.2

AJAY TEWARI, J. (Oral)

This appeal has been filed by the insurance company for claiming recovery rights.

Since limited point has been urged detailed reference to the facts is not required.

Learned counsel for the appellant has argued that the licence of the driver was valid till 4.5.2013 and thereafter it was renewed only on 17.7.2013 whereas the accident had taken place on 11.7.2013. She has relied upon the judgment of the Supreme Court passed in the matter of ***Ram Babu Tiwari vs. United Indian Insurance Co. Ltd. and others*** reported as ***2008 (3) R.C.R. (Civil) 912*** wherein in the similar circumstance, the Supreme Court has held that if an application for renewal is made within thirty days such a driver can be held to be possessing a valid driving licence

the subsequent renewal relate back to the date of expiration. But if the application for renewal is filed subsequently then it cannot be held that the driver was holding a valid licence on the date.

In the present case, the owner and the driver did not examine themselves to prove that the driver had applied for renewal of licence within 30 days prescribed under the Act. Only official of the Licencing Authority, i.e. one Raj Kumar had been examined by the appellant-insurance company who had stated that it was incorrect to say that the application for renewal was filed on 4.5.2013. Under the Act, if an application for renewal is filed beyond thirty days the licence is renewed from the date of the application. In the present case, since the licence was issued with effect from 17.7.2013 it is clear that the application was filed on that date. Consequently, it has to be held that driver did not have a valid licence on the date of the accident and therefore, the appellant is entitled to recovery of amount which it has paid by way of compensation.

The appeal stands allowed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

14.8.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No