

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.4204 of 2017 (O&M)

Date of Decision: 23.05.2018

Vikas Kumar Singla

.....Appellant

Vs.

Ashok Kumar and others

.....Respondents

FAO No.6910 of 2017 (O&M)

Vikas Kumar Singla

.....Appellant

Vs.

Kunta Devi and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Dheeraj Narula, Advocate, for the appellant.

Mr.Gaurav Aggarwal, Advocate, for respondent No.1.

Ms.Vandana Malhotra, Advocate, for respondent/Insurance co.

RITU BAHRI, J. (ORAL)

This common judgment shall dispose of above mentioned two appeals which have arising out of the same accident and the facts are being taken from FAO No.4204 of 2017.

Present appeals have been preferred by the appellant/owner (for short 'the appellant'), against award dated 14.09.2016, passed by the learned Motor Accident Claims Tribunal, Sirsa (for short, 'the Tribunal') and also against the finding given by the learned MACT with regard to the validity of

In paragraph 43 of the Award, it has been observed that the two driving licenses have been issued in the name of driver-Nirmal Singh i.e. Ex.R4 and Ex.R5. The driving licence bearing 34799 Ex.R-4 was issued by the Registration Authority, Patiala on 28.02.2003 and was valid upto 27.02.2006. The another license Ex.R5 was issued by the Registration Authority, Tuensand, Nagaland on 09.07.2010 which was valid upto 08.12.2016. As per verification report Annexure A-2 which has been placed on record by the appellant shows that the said licence has been issued in the name of driver which was valid upto 08.12.2016 and smart card licence has been issued in the name of driver by the Nagaland Government which has been placed on record by the appellant as Annexure A-3.

The appellant has placed on record the Annexure A-3 as additional evidence by way of application under Order 41 Rule 27 CPC. In this application, it has been made clear that the appellant placed on record the driving license which was valid upto 08.12.2016 for driving the MC/LMV/HTV/HPV and the said license was issued in I-card format. Thereafter, the passing of the award on 28.11.2016, the license authority Govt. of Nagaland renewed the license of the respondent No.3 and now issued the smart card of the license at the time of renewal. The said smart card license clearly shows that the license was valid at the time of alleged accident.

A reference can be made at this stage to the judgment of Hon'ble Supreme Court in the case of Mukund Dewangan Vs. Oriental Insurance Company Limited 2017 LawSuit(SC) 735 wherein, the following observation has been made which is as under:

vehicles under Rule 75 as provided in Form 41 which includes gross vehicle weight, unladen weight etc. The Central Government has the power to frame rules under Section 27, inter alia, regarding minimum qualification, forms, and contents of the licences etc. Thus, we are of the considered opinion that the definition of 'light motor vehicle' under Section 2(21) of the Act includes transport vehicle of the class and weight defined therein. The transport vehicle or omnibus would be light motor vehicle, gross vehicle weight of which, and also a motor car or tractor or road roller, unladen weight of, which, does not exceed 7500 kg., and can be driven by holder of licence to drive light motor vehicle and no separate endorsement is required to drive such transport vehicle.

A perusal of information under RTI i.e. Annexure A-2 shows that license has been issued on 09.07.2010 and it was valid upto 08.12.2016 whereas, the accident took place on 31.01.2014 and thereafter license was renewed in a smart card format which was valid upto 07.04.2029 (Annexure A-3) which includes to drive the transport vehicle and as per aforesaid judgment, there is no separate endorsement is required.

So in view of the above and judgment referred above, both the appeals are allowed and finding given by the learned Tribunal in favour of insurance company to recover the amount from the driver and owner is set aside and. Thus, driver, owner and insurance company are liable to make payment of compensation jointly and severally.

(RITU BAHRI)
JUDGE

23.05.2018

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No

