

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

FAO No.4855 of 2017

Date of Decision.08.01.2018

National Insurance Company Ltd.

.....Appellant

Vs

Dharam Singh and others

.....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sandeep Suri, Advocate
for the appellant.

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AMIT RAWAL J.(ORAL)

The insurance company is in appeal *viz-a-viz* the finding rendered on issue No.3 regarding the genuineness and validity of the driving licence held by the driver.

Learned counsel for the appellant submits that report of the investigator Ex.RF was tendered but the same was not rebutted by other side and therefore, the Tribunal ought to have taken cognizance of the same. In fact, as per the aforementioned report, driving licence was issued in the name of Sanjay Kumar son of Tara Chand, resident of H.No.91, Ward No.5, Poultry Area, Tehsil Nilokheri, District Karnal whereas the name and address of the driving licenece holder in Ex.RA is Vishal Kumar son of Om Parkash, resident of H.No.285, Ahun, Distt. Kaithal. Even the driving licence had been issued from the office of DTO, Bishnupur, District Manipur. The Tribunal ought to have given the recovery rights to the appellant with regard to amount of compensation awarded by it. Even sufficient opportunity has not been given to prove the report of the investigator.

paper book. It is settled law that onus to prove invalidity or fakeness of the driving licence is on the insurance company. In the instant case, Ex.RA, driving licence has not been proved to be fake except tendering of the report by the investigator. Neither investigator has been examined in the Court by either party to be given a chance to cross-examine nor any application for additional evidence has been moved in this regard. The zimini orders are also wanting to show that sufficient opportunity has not been given.

In the absence of any such material, I do not find any reason to differ with the finding rendered by the Tribunal. No ground for interference is made out. The appeal stands dismissed. However, the statutory amount of ₹25,000/- deposited before this Court at the time of filing of the appeal shall be transmitted to the Tribunal for part satisfaction of the compensation awarded by the Tribunal.

(AMIT RAWAL)
JUDGE

January 08, 2018
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No