

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

**FAO No.5137 of 2017 (O & M)  
Date of Decision:-19.2.2018**

Oriental Insurance Company Ltd.

...Appellant

Versus

Naresh Kumar and others

...Respondents

**CORAM:- HON'BLE MR. JUSTICE AMIT RAWAL**

Present:- Mr. Vinod Chaudhri, Advocate  
for the appellant.

**AMIT RAWAL J.(Oral)**

This order of mine shall dispose of the aforesaid appeal against the finding rendered by the Tribunal in respect of an accident occurred on 27.01.2016 wherein the claim petition preferred by the claimants has been allowed along with claim petitions of other similarly situated persons.

Mr. V. Choudhri, learned counsel appearing on behalf of the appellant-insurance company submits that the driving licence of driver namely Sabbir son of Ibrahim resident of Baded, Tehsil Firozpur Jhirka, District Mewat was allegedly issued by DTO Tuensang, Nagaland. The driving licence report received from DTO Tuensang, Nagaland containing 8 pages was tendered as Ex.R6, which showed that the driving licence was

fake. Even the owner of the vehicle had not taken measures for verifying the genuity or otherwise of the driving licence to seek protection as per the finding rendered by the Hon'ble Supreme Court in ***National Insurance Co. Ltd. Vs. Swaran Singh and others (2004) 3 SCC 297*** and ***Pepsu Road Transport Corpn. v. National Insurance Co., (2013) 10 SCC 217***.

Any sane person would make a reasonable enquiry particularly when the driver was resident of Haryana and the driving licence issued from Nagaland, but the owner failed to do so. All these factors ought to have weighed in the mind of the Tribunal while dealing with the controversy, thus, urges this Court for modification of the award on the issue of liability.

I have heard learned counsel for the appellant and appraised the paper book. The report Ex.R6 has not been proved on record in accordance with law. Mere exhibition of document does not dispense with its proof, in view of the law laid down by the Hon'ble Supreme Court in ***Sait Tarajee Khimchand And Ors. vs Yelamarti Satyam Alias Satteyya and others AIR 1971 SC 1865***. It was incumbent upon the insurance company to summon the witness from DTO Tuensang, Nagaland or seek appointment of the local commissioner for the purpose of examination and cross-examination in respect of the report issued by the concerned DTO Tuensang, Nagaland. The owner when appeared in the witness box categorically stated that by looking at the driving licence it appeared to be a genuine one, despite the fact that the same was issued by DTO Nagaland. Even for the sake of arguments, it is assumed that the driver did not visit Nagaland for obtaining driving licence but the fact remains that the onus to prove the genuineness

or otherwise of the same was upon the insurance company, which had not been discharged.

Keeping in view the aforementioned fact, I am of the view that the finding rendered by the Tribunal cannot be faulted with. No ground for interference is made out. The appeal stands dismissed.

February 19, 2018  
Vijay Asija

( AMIT RAWAL )  
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No